CHAPTER 5. AIRPORT CONSTRUCTION AND EQUIPMENT PROJECTS
SECTION 1. GENERAL

500. PROJECT ELIGIBILITY REQUIREMENTS. No airport development project (see Chapter 6 for airport development projects involving land) can be approved unless it meets the general requirements of paragraph 300 and conforms with the standards established by the Administrator, including standards for site location, airport layout, grading, drainage, seeding, paving, lighting, and safety of approaches. FAA determination on eligibility of safety and security facilities as well as other airport development items is based on a policy that the airport standards and regulatory requirements, if fully met by an airport, provide for adequate facilities and equipment to meet public needs. Any development beyond those standards or requirements would not be eligible for Federal funding. This policy is reflected in the noneligibility of ARFF equipment beyond that required by Part 139 and the funding limits on construction of runways longer, wider, or stronger than specified in advisory circulars. Further, no airport development project may be approved:

a. Unless the sponsor, a public agency, or the United States holds good title to the landing area of the airport or gives assurance that good title will be acquired;

b. Unless the project is consistent with the FAA approved airport layout plan;

c. Which does not include provisions for land required for the installation of approach light systems; touchdown zone and centerline runway lighting; or high intensity runway lighting when it is determined by the Secretary that such item is required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic using the airport;

d. Which does not provide for a safe, useful, and usable unit. In the case of development to be accomplished in stages, a safe, useful, and usable unit must be provided upon completion of the final stage;

e. Unless the project provides for runway or taxiway marking in accordance with AC 150/5340-1 if the existing marking is obliterated by construction, alteration, repair work, or construction equipment.

501. MAINTENANCE VS. RECONSTRUCTION/REPAIR. Under AIP, maintenance work is ineligible. In many cases, it will be necessary to determine whether the proposed work constitutes maintenance or eligible airport development. In making this determination, maintenance should be regarded as including any regular or recurring work necessary, on a continuing basis, to preserve existing airport facilities in good condition, any work involved in the care or cleaning of existing airport facilities, and any incidental or minor repair work on existing airport facilities.

502.-509. RESERVED.

SECTION 2. SITE PREPARATION

510. GENERAL. Work necessary to prepare the site for eligible airport development or so that it meets applicable airport design standards is eligible. Site preparation will usually include such items as clearing, grading, grubbing, and drainage facilities. In the case of seaplane facilities, dredging of seaplane anchorages and channels is eligible.

511. SITE PREPARATION FOR EXISTING FACILITIES. Normally, site preparation work is associated with new construction. However, site preparation may also involve work to bring existing

facilities into conformance with applicable airport design standards. Typical work items are clearing, grading, and grubbing runway and taxiway safety areas.

512. PRORATION OF SITE PREPARATION WORK. In some cases, a sponsor may determine that it is beneficial to undertake site preparation for both eligible and ineligible airport development through one construction contract. In these cases, the cost of the site preparation shall be prorated between the eligible and ineligible development items unless the cost of the ineligible site preparation is insignificant or incidental to the eligible site preparation work. The determination on whether or not to prorate the costs must be made on a case-by-case evaluation. Typical examples include:

a. The sponsor proposes to include in a building an additional bay beyond that needed to house snow removal equipment. The cost of site preparation for the ineligible bay would normally be insignificant when compared to the site preparation for the eligible part of the building.

b. Site preparation for an eligible apron requires fill. The sponsor proposes to obtain the fill by grading (and thereby preparing the site) an adjacent area designated for aircraft hangars. Site preparation of the hangar area may be considered incidental to the site preparation of the apron area if the regional field office determines it represents the most logical source for the fill.

513. SITE PREPARATION FOR FACILITIES AND EQUIPMENT (F&E) INSTALLATION.

a. Except as specifically identified below, site preparation for F&E installations is ineligible:

(1) Navaid Site Preparation. For navaids included in the F&E budget, site preparation will be funded by F&E and will, therefore, be ineligible for AIP.

(2) Clearing and Grubbing. Clearing and grubbing for eligible airport development items may result in the clearing and grubbing of the F&E installation site. For example, clearing and grubbing of the runway protection zone will result in the clearing and grubbing of the approach light system located in that zone. This type of site preparation is eligible provided that:

(a) The work is included as part of the clearing and grubbing for eligible airport development. (Note: Grants should not be issued for the clearing and grubbing of the F&E site exclusively.)

(b) The cost of clearing and grubbing the F&E site is insignificant when compared to the cost of the eligible airport development clearing and grubbing in which it is included.

(c) Grading of the site is limited to that which is necessary to meet airport design standards that would be applicable without the navaid.

(3) Installation of Ducts. Installation of ducts to support an F&E project is not normally eligible for funding under AIP. In special cases, where it is documented that ducts for future F&E facilities can be more economically installed incidental to a current AIP paving project, the installation may be funded if requested by the sponsor.

b. The site for an F&E installation may be prepared in connection with an eligible airport development project provided that the grant agreement specifies that this work will be funded entirely by the F&E Program.

514.-519. RESERVED.

SECTION 3. AIRFIELD PAVING, MARKING, AND SIGNAGE

520. GENERAL.

a. Airfield Paving. Eligible work items under airfield paving include construction, reconstruction, and repair of runways, taxiways, and aprons. Specific programming criteria on the individual work items are provided in the subsequent paragraphs. The following criteria are applicable to all airfield paving projects:

(1) The application of asphalt seal coats and the cleaning, repair, and resealing of joints in concrete pavements are eligible for Federal participation under certain conditions. These types of pavement repair work will be eligible only when periodic pavement surveys reveal trends in deterioration and it is determined that repair will retain the serviceability of the pavement. The responsible Airports Division must be satisfied that the sponsor has made a conscientious good faith effort to maintain the pavement during the interim since the most recent construction/restoration/repair project. The following rules will apply:

(a) The preparation of the pavement surface, including the cleaning and filling of cracks, before repair work is performed, is eligible when associated with an eligible repair project.

(b) Eligible types of seal coats:

(i) Aggregate seal coat with optional fog seal as a final coat;
(ii) Sand seal coat;
(iii) Rubberized asphalt seal coat;
(iv) Emulsified asphalt slurry seal coat;
(v) Coal tar pitch emulsion seal coat;
(vi) Rubberized coal tar pitch emulsion seal coat.

(2) Friction surface treatments, such as grooving, aggregate seal coats or porous friction courses, to minimize hydroplaning or improve skid resistance are eligible and should be considered a high priority item for runways serving turbojet aircraft. Project documentation should include an explanation when surface treatment is not part of a project at airports serving turbojet aircraft.

(3) Portions of taxiway systems and apron areas are eligible for friction surface treatments where the increased skid resistance is needed to enhance safety.

(4) Treatment of areas adjacent to eligible paved areas to prevent erosion from the blast effects of turbojet powered aircraft is eligible. Treatments must conform to applicable airport design standards and may be applied to shoulders and blast pads.

b. Pavement Strengthening. The airport owner has a commitment to prevent overstressing of the airport pavement. If the owner is not prepared to strengthen the pavement, then its use must be limited to aircraft operations which will preclude such overstressing. Should pavement failure occur because the sponsor failed to take timely corrective action after being advised of the pavement limitations, any subsequent AIP project will be limited to the cost of such work as would have been required for pavement strengthening had failure not occurred.

c. Airfield Marking. Normally, airfield marking is a maintenance item. However, the initial marking of eligible runways, helipads, taxiways, and that portion of the apron allied with the taxiway system is eligible. The remarking of these paved areas is also eligible if:

(1) Present marking is obsolete under current FAA standards, or

(2) Present marking is obliterated by construction, alteration, and repair work included in an AIP project or by the required routing of construction equipment used therein.

d. Airfield Signs. Airfield signs, such as destination, intersection, and runway distance remaining markers, and signs necessary to provide information to pilots are eligible.

521. RUNWAYS.

a. General. The designated instrument runway (or dominant runway, as determined by the sponsor and FAA field office, if there is no designated runway) will be eligible for development consistent with FAA design and engineering standards. Typical runway development includes construction of new runways or lengthening, widening, strengthening, or leveling of existing runways.

b. Development Exceeding Design Standards. The complete surfacing of an existing runway, whose length or width exceeds FAA design standards, may be eligible for AIP participation if it meets the general requirements above and all of the following:

(1) The runway is otherwise eligible;

(2) The cost in excess of that required to accomplish the recommendation of the FAA is justifiable in the opinion of regional personnel and the existing capability of the runway will be preserved or enhanced thereby; and

(3) Operational experience has established a continuing need for the existing length or width to accommodate occasional use by aircraft requiring it.

c. Additional Runways. AIP participation in runway development will be limited to a single runway at an airport unless additional runways can be justified on one of the following circumstances:

(1) The eligible runway has a crosswind component that exceeds the following criteria five percent of the time:

(a) Fifteen miles per hour (l3 knots) for large or turbojet powered aircraft; and

(b) Twelve miles per hour (10.5 knots) for small aircraft (less than 12,500 pounds) except turbojet powered aircraft.

(2) The volume of traffic justifies an additional runway and the layout and orientation of the additional runway will expedite traffic.

(3) A condition or combination of traffic volume and noise problems or poor runway/taxiway configuration justify an additional runway.

d. Ineligible Runways. Any development (such as marking or lighting) related to or on an ineligible runway will not be funded under AIP.

522. HELIPADS. Paving to accommodate helicopters is eligible whether co-located on a fixed wing aircraft airport or on a heliport.

523. TAXIWAYS.

a. General. The construction, alteration, and reconstruction of taxiways to expedite the flow of traffic between runways and aircraft parking areas available for general public use are eligible. Typical

taxiway development includes construction of new taxiways or strengthening, widening, or leveling the taxiway to meet FAA design and engineering standards.

b. Parallel Taxiways. A full length parallel taxiway connected to each end of an eligible runway is eligible as a part of the fundamental airport configuration. A partial parallel taxiway is permissible on noncommercial service airports where it is not practical to construct a full length parallel taxiway.

c. Exit Taxiways, Bypass Taxiways, Turnarounds, and Holding Bays. These items are eligible if they are necessary as determined by the FAA design criteria to expedite the flow of traffic.

d. Taxiways to Storage, Hangar, and Service Areas. Taxiways to provide access to aircraft storage, hangar, and service areas available for use by the general public are eligible if the facility or area is reasonably located with respect to the operation of the airport. The judgment of a reasonable location must be made on the basis of the overall plan for airport development, requirements for operations, economy of providing taxiways, and other facilities for the storage, hangar or service areas. If the sponsor elects to establish storage, hangar or service areas in a location other than approved by the field office as reasonable and economical, only a portion of the taxiway to such an area is eligible for programming. Taxiways to serve an area or facility primarily for exclusive or near exclusive use of a tenant or an operator not furnishing aeronautical services to the public will not be funded under AIP (e.g., the pavement connecting a T-hangar door to the public taxiway).

e. Ineligible Runways Converted to Taxiways. Development related to the conversion of an ineligible runway to a taxiway will be programmed only if the taxiway can be justified on the basis of the cost involved and its use as a taxiway is assured. Such projects must provide for taxiway marking, the installation of taxiway lights (if lighting is needed), and ALP identification as a taxiway.

524. APRONS. The construction, alteration, and reconstruction of public use aprons are eligible. Aprons to serve areas which are predominantly for exclusive use or near exclusive use of a tenant or operator not furnishing aeronautical service to the public are ineligible. In determining public use, the present use will govern unless definite facts are known regarding future use.

525.-529. RESERVED.

SECTION 4. AIRFIELD LIGHTING AND ELECTRICAL WORK

530. GENERAL.

a. Installation, Alteration, and Rehabilitation of Airfield Lighting. The installation, alteration, and rehabilitation of airfield lighting equipment and related electrical work are eligible, provided they conform to FAA design and engineering standards. This includes the adequate lighting of obstructions as determined necessary under the provisions of FAR Part 77. (See paragraph 582.)

b. Support Items. Items such as control equipment, electrical panels, and transformer vaults necessary for the operation of eligible airfield lighting are also eligible. This includes equipment necessary for the operation of radio activated lighting systems.

c. Power Sources. The connection of the airfield lighting to the nearest available and adequate power source is eligible, as is the interconnection of two or more power sources on the airport property. The provision of second sources of power and the installation of standby engine generators with a capacity necessary to operate the airfield lighting and navigational aids owned by the airport will also be eligible.

d. Nonmandatory Lighting. Although airfield lighting is considered to be part of the fundamental airport configuration, its inclusion in a project is not mandatory unless required under paragraph 500c.

531. ELECTRICAL POWER FOR VISUAL AIDS.

a. Power Requirements. The current orders, Order 6030.20, Electrical Power Policy, and Order 6950.2, Electric Power Policy Implementation at National Airspace System Facilities, describe the minimum electrical power necessary for facilities in the National Airspace System (NAS). Some of the facilities necessary in the system for Category II/III operations or for a "continuous power airport" are sponsor owned. The sponsor of a proposed project at an airport deficient in the power requirements described in the order may be required to provide this level of power either in the project or without Federal aid (see d. below).

b. Category II/III Operations. The Orders stipulate, for airports with runways designated for Category II/III operations, that whenever standby electrical power plants provide backup for primary power sources, transfer time for the plant will not be greater than one second. This configuration must serve in addition to the navigational facilities in Order 6950.2:

(1) Touchdown zone and runway centerline lighting on the runway designated for Category II/III operations.

(2) High intensity runway lights on the runway designated for Category II/III operations.

c. Continuous Power Airports. For the continuous power airports listed in the appendix of Order 6030.20, the Order stipulates that power from an emergency power source be online within 15 seconds after failure of the prime source with automatic transfer capability except those Category II/III lighting aids which require a one-second transfer. In addition to the navigational facilities in Order 6950.2, this configuration must serve:

(1) Touchdown zone lighting and runway centerline lighting on the runway designated for continuous operations;

(2) Runway lights on the instrument runway selected for continuous operation and the taxiway lights on the taxiway(s) serving that runway; and

(3) Perimeter lighting of the terminal apron.

d. Deviation from Power Requirements. The standard power configurations in Order 6950.2 were effective with the issuance of the order on 4/3/81. Since the standards may differ from existing power systems, there is no requirement to change from that configuration; and waivers are not required for deviations from the standard configuration. However, the standard configuration will be required for any new facilities covered in this paragraph unless waived by Headquarters.

532. RUNWAY LIGHTING. Any runway eligible for paving (see paragraph 521) is also eligible for runway lighting in accordance with the following criteria:

a. Low Intensity Runway Lights. These lights will only be installed on runways at airports that do not currently have or plan to have an instrument approach procedure.

b. Medium Intensity Runway Lights. These lights shall be used on runways at airports that have or plan to have a nonprecision instrument approach procedure.

c. High Intensity Runway Lights. These lights shall be installed on runways that have a precision instrument approach procedure. In addition, designated instrument runways which will meet the F&E criteria for the installation of a precision approach navigational aid within 5 years will also be eligible for this type of lighting system.

d. Touchdown Zone Lights. Touchdown zone lights are eligible on runways designated for landing operations below 2,400 feet runway visual range.

e. Centerline Lights. Centerline lights are eligible on runways which are designated for:

(1) Landing operations below 2,400 feet runway visual range;

(2) For use by aircraft with approach speeds exceeding 140 knots or if the runway has a width greater than 170 feet; or

(3) Takeoff operations below 1,600 feet runway visual range.

533. HELIPAD LIGHTING. Helipad lighting is eligible provided the airport/heliport is eligible and the lighting system meets FAA standards.

534. TAXIWAY LIGHTING. Any taxiway eligible for paving is also eligible for taxiway lighting (provided that the eligible runway is lighted) in accordance with the following criteria:

a. Taxiway Edge Lighting. Taxiway edge lights are the standard taxiway lighting system under AIP.

b. Taxiway Centerline Lighting. Taxiway centerline lights are eligible under the following conditions:

(1) The taxiway connects to a CAT II/III runway or to a runway used under CAT II/III conditions;

(2) A taxiway guidance problem exists during poor visibility conditions;

(3) Other lighting causes confusion;

(4) New or existing taxiways that will be associated with CAT I runways, if the field office determines the runway will likely have CAT II or CAT III minima within 5 years; or

(5) In other instances where a taxiway guidance problem can be documented.

c. Taxiway Guidance Signs. Lighted taxiway guidance signs are eligible.

535. APRON LIGHTING. Aprons eligible for paving will be eligible for lighting provided that an associated runway is lighted.

536. OTHER AIRFIELD LIGHTING. Items such as beacons, lighted wind indicators, and obstruction lights are eligible when necessary for the operation of the airfield at night.

537. RETROFLECTIVE MARKERS. Retroflective markers in lieu of runway edge lights, threshold lights, taxiway and apron lights are eligible if traffic is such that the markers will provide sufficient and safe guidance.

538.-539. RESERVED.

SECTION 5. NAVIGATIONAL AIDS

540. GENERAL.

a. The installation of navigational aids for landing or taking off will be accomplished primarily through the FAA's F&E program, but, under some circumstances, may also be funded under AIP. Where applicable, all navaids will be installed in accordance with FAA standards found in FAR Part 171.

b. Any navigational aid which is included in an approved F&E Program is not eligible under AIP.

c. The sponsor is responsible for obtaining from the regional frequency management office a frequency reservation for any electronic navaid or automatic weather reporting equipment it plans to install as well as a nonobjectionable airspace determination.

d. Any grant including a navaid must include the special condition in Appendix 9, which precludes reversion to FAA control.

e. Service roads necessary to provide access for maintenance purposes to the eligible AIP navigational aid are also eligible.

541. VISUAL NAVIGATIONAL AIDS.

a. On runways with a Category I precision approach procedure, a medium intensity approach lighting system with runway alignment indicator lights (MALSR) may be funded.

b. On runways that have or plan to have a straight-in nonprecision approach procedure, a medium intensity approach lighting system (MALS), a medium intensity approach lighting system with sequence flashers (MALSF), and an omni-directional approach lighting system (ODALS) are eligible provided that the lighting systems will result in a reduction in minimums.

c. Runway end identification lights are eligible for runways not equipped with an approach lighting system.

d. Visual glideslope indicator systems are eligible as follows:

(1) Part 139 Certificated Airports. The precision approach path indicator (PAPI) is the only visual glideslope system eligible for funding at Part 139 certificated airports.

(2) Other Airports. Any visual glideslope indicator meeting standard specification (AC 150/5345-52) is eligible at other than Part 139 certificated airports. If the standard specification with no modification is incorporated into the IFB, the sponsor will be required to accept the system with the lowest responsive and responsible bid price. If the sponsor decides to modify the standard specification to specify a single unit system or a multiple unit system, FAA's participation will be limited to a set price based on historical cost of meeting the FAA specification with no modification or the low bid, whichever is less. The sponsor will be responsible for paying the difference between the bid price of the unit and the prorated share of this set price, which will be periodically reviewed and changed as necessary by AAS-200.

542. ELECTRONIC NAVIGATIONAL AIDS.

a. ILS. Reserved.

b. MLS. Requests for Microwave Landing Systems will be cleared through APP-510.

c. Other. The installation of the following electronic navaid systems is eligible if the airport will meet the establishment criteria in Order 7031.2 within 5 years:

(1) DME. Distance Measuring Equipment;

(2) TVOR. Terminal Very High Frequency Omni Directional Radio Range;

(3) NDB. Nondirectional Beacon. NDBs will be eligible if there is no other existing navigational aid which will provide a nonprecision instrument approach to the airport or if the NDB will provide lower instrument minimums. However, NDBs should not be installed with AIP assistance if NDB frequency will be reassigned to another facility in the National Airspace System within 5 years.

543. AUTOMATED WEATHER OBSERVING SYSTEM (AWOS)

a. Eligibility. To qualify for an AWOS, an airport must be subjected to a benefit/cost analysis and achieve a ratio greater than 1. This analysis is performed in headquarters; contact APP-510 for assistance. An airport may be eligible for any or all of the three configurations described below since the costs and benefits are different for each. The sponsor may select among those for which the airport qualifies.

b. Coordination Within the Region. Many airports already qualify for and may be programmed to receive AWOS under the F&E program. Prior to approving a grant application for AWOS, the project should be coordinated with the regional AWOS program manager and the sponsor should be advised of the status of its airport vis-a-vis the F&E program for AWOS.

c. System Configuration.

(1) AWOS 1. This basic unit consists of a central processor and sensors to measure altimeter setting, wind data (direction, speed, and gust), temperature, dewpoint, and density altitude. The information provided by the basic unit is sufficient for many GA airports.

(2) AWOS 2. This consists of the basic unit described in (1) above with the addition of a visibility sensor. Reliever airports may qualify for AWOS 2 since the ceiling information is normally available from the major airport in that geographic area.

(3) AWOS 3. AWOS 3 consists of the basic unit, the visibility sensor, and a sensor to measure the ceiling (ceilometer). AWOS 3 provides information which is required for operations under FAR Parts 121 and 135.

(4) VHF Transmitter. The FAA policy is to transmit AWOS output over the voice channel of an existing navigational aid such as a VOR or NDB. If there is no nearby navigational aid that satisfies the coverage requirement, or if the channel is already used, then a separate VHF transmitter must be used. This transmitter, if required, is eligible for funding.

(5) Automatic Telephone Answering Device. The AWOS may be provided with an automatic telephone answering device which allows pilots to call the AWOS and receive the weather report. This device is eligible and recommended for AIP funded AWOSs; however, the on-going cost for leasing the telephone line to service the modem is not eligible.

(6) AWOS Data Acquisition System (ADAS). Sponsors should be encouraged to connect the AWOS to the ADAS, thereby making the data available on the national weather network. This interface requires a modem located at the AWOS and a leased telephone line to the ADAS, located at the ARTCC. The modems to interface the systems are eligible. At certain locations, the FAA will reimburse the sponsor under the F&E Program for the leasing costs of the telephone line. Responsibility for communication line charges should be determined by the regional AWOS program manager, and the sponsor fully advised of his continuing costs, if applicable. Telephone line leasing charges are not eligible project costs.

(7) Ancillary Systems. While other options in the way of displays, printers, and sensors may be available, field offices should approve only the minimum necessary for the type of system for which the airport is eligible. Remote maintenance monitoring is not eligible except as allowed in e. below.

d. Frequency Requirements. Prior to AWOS going under grant, the sponsor must obtain a frequency assignment for the equipment from the FAA regional Frequency Management Officer.

e. Procurement. AWOS equipment shall be procured and installed through the competitive bidding process of 49 CFR 18.36. Only equipment approved by the FAA as meeting the interim guidance of AC 150/5220-16, Automated Weather Observing Systems (AWOS) for non-Federal Application, shall be eligible. An additional 10% of the equipment cost is allowable for spare parts as required.

f. Sponsor's Obligations. Sponsors should be advised that they will be required to operate and maintain the equipment for its useful life (estimated to be 15 or 20 years). The FAA will not take over the ownership, operation, and maintenance of any sponsor-acquired equipment, even if the location meets the qualification criteria in Airway Planning Standard No. 1. The Special Condition on Navaids, (Appendix 9, paragraph 6) will be required in each grant.

544.-549. RESERVED.

SECTION 6. LANDSIDE DEVELOPMENT

550. GENERAL. An airport's landside encompasses the area from the airport boundary where the general public enters the airport property to the point where they leave the terminal building to board the aircraft. Typical eligible landside development items include such things as terminal buildings, entrance roadways, and pedestrian walkways.

551. TERMINAL DEVELOPMENT.

a. General. Terminal development, as defined in d. of this paragraph, at commercial service airports is eligible. The Federal share of allowable project costs shall not exceed 75%. In submitting the application, the sponsor certifies that:

(1) Such airport has, on the date of submittal of the project application, all the safety and security equipment required for certification of the airport; and

(2) The sponsor has provided access for passengers to the enplaning and deplaning areas of aircraft other than air carrier aircraft.

b. Primary Airports. For primary airports terminal development can only be funded from a sponsor's passenger entitlement funds. Cargo entitlement and discretionary funds may not be used for terminal development at primary airports.

c. Nonprimary Commercial Service Airports. For nonprimary commercial service airports not more than $200,000 of discretionary money in any fiscal year may be used for project costs allowable for terminal development.

d. Eligibility Limitations. Eligible terminal development is limited to:

(1) Nonrevenue producing public-use areas that are directly related to the movement of passengers and baggage in air carrier and commuter service terminal facilities within the boundaries of the airport. (AGC Opinion, June 23, 1979, declares GA terminals ineligible.) Typical eligible items include baggage claim delivery areas, automated baggage handling equipment, public-use corridors to boarding areas, central waiting rooms, restrooms, holding areas, and foyers and entryways, as well as loading bridges. Excluded would be those areas which are primarily revenue producing such as restaurants, concession stands, and airline ticketing areas. With regard to baggage areas, only public-use areas associated with baggage claim delivery are eligible.

(a) The fact that public-use areas are subject to a lease where monies are recovered to defray amortization, maintenance, and operation costs of the building will not make such areas nonpublic and thus ineligible. In addition, the fact that areas may be limited in use for reasons of security or processing international passengers shall not affect eligibility.

(b) Incidental use of public space for display or advertising, vending machines for public convenience, or coin-operated locks in restrooms will not render areas ineligible. However, costs associated with building adaptation for installation of these items are not eligible. Also, areas designed to provide income by serving the public through coin machines and similar collection methods such as cleaning and laundry areas, game rooms, etc., are not eligible.

(2) Terminal passenger vehicles which are used exclusively within the boundaries of the airport primarily to move passengers between airline terminals or gates. Vehicles to transport passengers to and from aircraft are also eligible. The fact that monies are recovered to defray the costs of amortization, maintenance, and operations will not make such vehicles ineligible.

(3) Construction or improvement of public-use areas of Federal inspection facilities, including baggage handling equipment, with the exception of:

(a) Administrative office space; and

(b) Special purpose equipment or space.

(4) Fixed terminal facilities and equipment including boarding devices required by 49 CFR 27 for access by the handicapped provided:

(a) They are an integral part of the design of new terminal construction or are incidental to a major terminal renovation.

(b) They are not minor items of personal property such as telephones, teletypewriters, etc. (Legal opinion, AGC-130, Aug. 20, 1980); and

(c) Other terminal development eligibility criteria are met.

e. Multimodal Terminal Buildings. Subject to the requirements in subparagraphs a. through d. above, AIP funds may be used to develop a multimodal terminal located within the boundaries of the airport.

(1) Multimodal terminal buildings serve as an interchange for passengers and baggage between two or more modes of transportation which operate on a scheduled basis under a franchise or similar authority granted by a Federal, state, or local agency with connecting route structures that extend beyond the local service area.

(2) Only the portions of the building which are directly related to air commerce are eligible. APP-510 shall be consulted prior to the programming of any multimodal terminal project.

f. Proration of Terminal Building Work. Terminal building projects will usually involve work in both eligible and ineligible areas (see paragraph 1111 and Appendix 9, paragraph 1 for special conditions). Federal participation may be determined by the following or other methods, as appropriate (and may be used for other eligible airport buildings):

(1) Detailed Cost Analysis. A detailed analysis is undertaken by the sponsor's design consultant during the design stage and prepared on the basis of assigning costs to eligible areas under the guidelines in d. of this paragraph. This analysis would also prorate costs for items such as site preparation, foundations, and utilities that contribute to public-use areas. This method of proration is particularly applicable to new terminal construction.

(2) Proration on a Square Footage Basis. Construction costs are prorated on the ratio of the square footage that the eligible area bears to the total usable square footage of the structure. The proration of costs for items that contribute to public-use areas such as site preparation, foundations, and utilities is based on this ratio. This method of proration is particularly applicable to determining retroactive financial assistance for existing terminal facilities.

g. Energy Assessment. Energy assessments on new buildings or on the expansion of an existing building are eligible as incidental elements when part of the building design. They are not eligible items of work under a master plan.

552. TERMINAL BOND RETIREMENT.

a. General. The retirement of the principal of bonds or other evidences of indebtedness for terminal development carried out on or after July 1, 1970, and before July 12, 1976, is eligible if the airport would have qualified as an air carrier airport under the Airport and Airway Development Act of 1970, as amended. In addition to the limitation and certification required by paragraph 551 above, the following requirements are applicable:

(1) No funds available for airport development under AIP may be obligated for additional terminal development at such airport for a period of 3 years beginning on the date any such sums are used for such retirement.

(2) AIP funds made available for this purpose shall be used only for the immediate retirement of that portion of the indebtedness which was used for eligible terminal development as defined in paragraph 551d of this section.

b. Guidelines.

(1) The word “indebtedness” means a legally enforceable debt of the sponsor. A sponsor's debt to itself is not a debt within the meaning of this section. For example, a transfer of funds from one account of the sponsor's operations to another to pay for terminal development would not create an indebtedness entitled to retirement, regardless of any understanding or agreement between sponsor elements to consider such transfer a loan, unless a legal obligation to repay exists.

(2) In the event that funds available in a fiscal year for debt retirement are not sufficient to cover the Government's share, the debt can be carried over several years and retired as enplanement funds become available.

(3) Sponsors are not required to retire a proportional share of the debt as their matching funds as a condition to receiving AIP funds.

553. AIRPORT ROADS. The construction, reconstruction, and alteration of airport roads and related facilities may be eligible (see paragraph 594 for relocation of roads).

a. Access Roads. Access roads and related facilities are eligible provided they meet the following conditions:

(1) The access road may only extend to the nearest public highway of sufficient capacity to accommodate airport traffic.

(2) The access road must be located on the airport or within a right-of-way acquired by the airport sponsor.

(3) The access road must serve exclusively airport traffic. Any section of the roadway which does not serve airport traffic exclusively is ineligible. (AGC opinions, 1949, 1951.)

(4) More than one access road is eligible if the airport surface traffic is of sufficient volume to require more than one road.

(5) Related facilities such as acceleration and deceleration lanes, exit and entrance ramps, street lighting, and bus stops also are eligible when they are a necessary part of an eligible access road.

b. Service Roads. Service roads located on the airfield side of the airport are eligible if necessary for:

(1) ARFF access to the runway and runway safety area; and

(2) Operation and maintenance of the airport.

c. Roads Ineligible for Funding.

(1) Roads necessary to maintain FAA facilities installed under the F&E program;

(2) Roads serving solely industrial or non-aviation related areas or facilities;

(3) Roads exclusively for the purpose of connecting parking facilities to an access road.

554. WALKWAYS. At commercial service airports, walkway facilities including surface sidewalks, tunnel walkways, stairs, and overhead walkways will be eligible. Covers or canopies over surface sidewalks may be eligible when necessary to protect concentrations of persons from the weather such as at passenger loading or unloading areas. If structurally part of the terminal facility, they will be considered as part of terminal development. At other than commercial service airports, surface sidewalks will be eligible only as an incidental part of an eligible access roadway project.

555. RAPID TRANSIT FACILITIES. Facilities located within the airport boundary that are necessary to provide a connection to a rapid transit system may be eligible if they will primarily serve the airport. Any such project should be coordinated with APP-510 before it is programmed.

556.-559. RESERVED.

SECTION 7. SAFETY, SECURITY, AND SUPPORT EQUIPMENT

560. GENERAL. This section provides guidance on the eligibility of items necessary to support the operation of the airport. Typical items include safety equipment required by FAR Part 139, security equipment required by FAR Part 107, snow removal equipment, buildings to house the equipment, and internal airport roads for ARFF access, security, and maintenance.

561. REFURBISHING, REPAIR, MODIFICATION, REPLACEMENT, AND DISPOSAL OF EQUIPMENT.

a. Refurbishing, Repair, or Modification. The cost to refurbish, repair, or modify eligible equipment to increase the performance of the equipment and/or to extend its useful life may be eligible. Airports field personnel should carefully review the sponsor's economic basis for each such project to insure it is not, in fact, normal maintenance. For information purposes, APP-510 should be notified of all projects for refurbishing or modification of equipment which might be due to design or specification shortcomings.

b. Replacement. The replacement of equipment acquired under the grant program and which has been destroyed accidentally, become obsolete, worn out, or otherwise become inoperable through no fault of the sponsor is eligible.

c. Used Equipment. The purchase of used equipment is eligible provided it meets FAA specifications and has a satisfactory economic useful life.

d. Lease/Purchase. In a lease/purchase plan between a sponsor and a manufacturer, funding is limited to the purchase portion of the arrangement, and a grant would be issued only after the sponsor decides to buy and the original lease/purchase solicitation was awarded in accordance with 49 CFR 18.36.

e. Disposal of Replaced or Unneeded Equipment.

(1) Equipment Less Than $5000. Equipment with a current per unit fair market value of less than $5000 may be disposed of at the sponsor's option with no reimbursement to the FAA.

(2) Equipment $5000 or More. Equipment with a current per unit fair market value of $5000 or more may be retained by the sponsor, sold for salvage value, traded in for replacement, or transferred to another airport of the same sponsor or to another eligible sponsor. If retained and used for airport purposes, no reimbursement is required. If the equipment is transferred to another eligible sponsor, the grant obligation shall also be transferred. There is no need for monetary consideration if the equipment being transferred would be eligible under the grant program. If a noneligible sponsor desires to obtain the equipment, fair market value shall be required. If removed from airport use, sold or traded in, the value shall be used to reduce the amount of the replacement grant or a subsequent grant, at the option of the field office.

562. SAFETY EQUIPMENT AT AIRPORTS.

a. General. The acquisition of safety equipment to meet the requirements of FAR Part 139 is eligible. Equipment in excess of that necessary to achieve the level of safety required by Part 139 is not

eligible except as provided in this paragraph. While Part 139 sets forth a minimum level of agent and water required by regulation, AC 150/5210-6 recommends levels which are higher than those required by Part 139. Sponsors may acquire vehicles that meet the recommended levels for that index as specified in the AC.

b. ARFF Vehicles at Certificated Airports. Acquisition of ARFF vehicles required for certification is eligible. The number of eligible vehicles is determined by the index applicable to that airport according to the criteria prescribed by current FAR Part 139 or forecasted to be needed within 5 years. This regulation also sets forth the total extinguishing agent gallonage required by vehicles, discharge capabilities, and the required vehicle response times.

c. ARFF Vehicles at Limited Certificate Airports. At limited certificate airports, ARFF equipment and agent capability agreed to by the FAA in approving the Airport Certification Specifications is eligible.

d. ARFF Vehicles at Noncertificated Airports. The Airport and Airway Safety and Capacity Expansion Act of 1987 amended the AAIA to expand the definition of airport development to include "firefighting and rescue equipment at any airport which serves scheduled passenger operations of air carrier aircraft designed for more than 20 passengers." Airports falling under this category and not certificated under Part 139 are eligible for one ARFF vehicle carrying at least 450 pounds of potassium-based dry chemical and water with a commensurate quantity of AFFF to total 100 gallons, for simultaneous dry chemical and AFFF application. See Appendix 9 for the special condition which is to be included in all grant agreements which provide for this equipment.

e. Protective Clothing. Protective clothing is an eligible item based on the following criteria:

(1) One suit for each fire fighter employed full-time to fight aircraft fires; and

(2) One suit for each position of a less than full-time unit subject to the limitation that the total number of suits does not exceed two for lightweight vehicles and five for large type vehicles. These limitations may be exceeded if field personnel believe it to be justified.

f. Other. Forcible entry tools, emergency lighting equipment, communications equipment, and other equipment used on ARFF vehicles are eligible.

g. Ineligible Items. Expendable items, e.g., extinguishing agents, maintenance and replacement parts, are not eligible. However, those items that are customarily included in the procurement specifications of ARFF vehicles in order to test the equipment and assure its effectiveness, i.e., a load of extinguishing agents to test the vehicle and a second load to assure its initial operational readiness, will be eligible when purchased as components of such vehicles. While the training of rescue and firefighting personnel is required by FAR Part 139, the cost of training programs is ineligible. See Appendix 2.

h. Expanded Safety Equipment Eligibility. Section 503 of the AAIA allows the funding of safety equipment specifically approved by the Secretary as contributing significantly to the safety of persons and property at an airport. Decisions on such eligibility will be referred on a case-by-case basis to the Airport Safety and Operations Division (AAS-300). The basic criteria for eligibility will be that the item of equipment is needed to meet a unique safety need at a particular airport. The sponsor's justification for the unique safety equipment with pertinent supporting documentation and the field office's recommendation and reasoning for that recommendation should be sent to APP-510.

563. SECURITY EQUIPMENT AND FACILITIES. The acquisition of security equipment and facilities to protect persons and property on the airport and to prevent or deter persons and vehicles from unauthorized access to air operations areas as required by FAR Part 107, "Airport Security," is eligible.

The specific piece of equipment or system must be identified in the FAA approved airport security program as being a component or integral part of the overall security system for the airport. FAA-approved security programs often include equipment and facilities not required to meet Part 107 standards. Therefore, all projects must be endorsed by the Manager, regional Civil Aviation Security Division, as containing only equipment/facilities required to meet Part 107. Any items beyond those required are not eligible. This may necessitate a prorated cost procedure for some items in the security program. Training for security personnel and items of an expendable nature such as ammunition for security personnel or fuel for security vehicles are also ineligible.

564. RESERVED.

565. SNOW AND ICE CONTROL EQUIPMENT.

a. Snow and Ice Control Equipment. Snow and ice control equipment required to clear snow and ice from the runways, principal taxiways, aprons, and gate areas is eligible. Eligibility is limited to the minimum level of equipment recommended in AC 150/5200-23 unless additional equipment can be justified (e.g., at some airports, the volume of traffic may require that more than one runway be kept open). Airports field personnel will decide on a case-by-case basis the validity of the justification. Guidance on this equipment and on recommended levels can be obtained from the Design Criteria Operations Division
(AAS-120).

b. Runway Surface Condition Sensors. This equipment, which transmits runway surface condition information and is used to determine the timing of chemical application for ice control, is eligible. Local conditions will determine the need for this equipment and the number of sensors required. Normally, three or four sensors should be sufficient for a runway unless local conditions dictate otherwise. (See AC 150/5220-13, Runway Surface Condition Sensors.)

c. Ineligible Items. Expendable items such as sand, chemicals, fluids, and other types of deicing materials are ineligible.

566. FRICTION MEASURING DEVICES. Friction measuring devices meeting the specifications in AC 150/5320-12, Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces, are eligible at commercial service airports having turbojet operations. The following conditions apply:

a. Type of Device. A self-contained friction measuring device, a towed device, or a towed device along with a tow vehicle are eligible. (Procurement of this item will be in accordance with the standard procurement procedures in Chapter 8.) If a towed device is funded without a tow vehicle, the sponsor must provide adequate assurance that it has or will have available a tow vehicle that meets fully the FAA specifications.

b. Eligible Sponsors. Commercial service airports having scheduled turbojet operations are eligible. Sponsors should be encouraged to coordinate with neighboring airports and purchase the device collectively since this equipment can effectively be used at more than one airport. State Departments of Transportation might be encouraged to sponsor such projects.

c. Special Condition. The special condition for friction measuring devices in Appendix 9 will be included in the grant agreement.

567. AIRPORT BUILDINGS.

a. General. Buildings to house and maintain eligible ARFF equipment and activities and equipment required by FAR Part 107 are eligible subject to the limitations of subparagraphs b, c, and e below. Storage facilities for snow and ice control equipment and material are also eligible subject to the limitations of subparagraphs b and d below. (See 551g for energy assessments.)

b. Limitation of Federal Participation.

(1) Buildings should be designed on a functional, safe, and efficient basis but in a manner that is consistent with the policy on design and architecture stated in paragraph 304. Only provisions for basic utility systems, such as heat, water, and electricity necessary for maintaining the equipment in an operational state of readiness or carrying out the activities related to the safety of persons on the airport is eligible.

(2) If a proposed building will include space in excess of that eligible for Federal participation, the cost of the building should be prorated in accordance with paragraph 551f.

c. ARFF Equipment Buildings.

(1) Certificated Airports.

(a) The number of bays eligible shall be limited to those necessary to house ARFF equipment required by regulations or forecasted to be needed within the 0 through 5-year NPIAS period. Space for a structural fire truck is eligible when such a truck is assigned to the fire fighting unit to provide backup support for the ARFF trucks and protection to airport buildings.

(b) Bays for fire trucks which are stationed on the airport, but primarily provide protection to buildings located outside the airport boundaries, are ineligible.

(c) Administrative space and personnel facilities should be kept to the minimum consistent with the type of operation.

(2) Noncertificated Airports. A minimal structure to house and protect the grant-funded vehicle is eligible.

d. Snow and Ice Control Equipment Buildings and Facilities. Federal participation in these buildings and facilities is limited to that necessary to accommodate the equipment eligible in paragraph 565 and to store abrasive and chemical material. At the time the building is programmed, the eligible equipment must be on hand, on order, or budgeted.

e. Maintenance Facilities.

(1) Maintenance (or service) facilities at certificated airports for maintaining required safety and security equipment may be funded up to a maximum of 1500 square feet in an existing building or in a new building or as a free standing facility. The eligible area will be determined by adding 10 feet to the length and 10 feet to the width of the largest ARFF vehicle serving the airport, then multiplying these two dimensions for the bay size and adding a like amount for support space. (E.g., if the largest ARFF vehicle is 10x20, the bay will be 600 sq. ft. (20x30) plus an additional 600 sq. ft. for support, or 1200 sq. ft. total.) (AGC Opinion, dated 3/22/83 on Eligibility of Security, Safety Equipment Facility.)

(2) If the service facility is part of a snow equipment storage facility or a ARFF facility, the square footage of the service bay and support facility is in addition to that eligible under c and d above.

568. UTILITIES. The installation of water, gas, and electric utilities and waste treatment facilities will be eligible to the extent they are needed to serve eligible airport development projects. The allowable cost of any installation serving both eligible and ineligible areas or facilities will be a prorated share of the total cost, the method to be determined by the region as in paragraph 551f. (See paragraph 1111 and Appendix 9, paragraph 1, for special conditions.)

569. FENCING.

a. Perimeter fencing and fencing between airport property and public areas, such as roads, etc., are eligible as are fences to discourage the access of wildlife, such as deer, to the runways and taxiways.

b. At commercial service airports, fencing of operational and/or security areas, as required to meet the requirements of FAR Parts 139 and l07 is eligible. The specific location, extent, type, and height of the fence will be determined in accordance with the FAA approved security plan for the airport.

c. Under ordinary circumstances, only the installation of standard gate and locking devices will be eligible. Where traffic through secured gates is of such proportions that the installation and use of an electric locking device and an automatic gate will assist and expedite the traffic flow, these systems will be eligible, subject to FAA approval.

570.-579. RESERVED.

SECTION 8. AIRPORT HAZARDS AND CONSTRAINTS

580. GENERAL. This section includes information concerning objects in runway protection zones, and airport and bird hazards. See Chapter 6 for relocation payments caused by the removal and/or relocation of airport hazards and objects in runway protection zones.

581. OBJECTS IN RUNWAY PROTECTION ZONES. The removal and relocation, if necessary, of any object located in the runway protection zone are eligible regardless of whether it constitutes an obstruction.

582. AIRPORT HAZARDS. The removal, lowering, or relocation of any object (both natural and man-made) which constitutes an airport hazard, as defined in the AAIA and identified in paragraphs 16 and 17 of AC 150/5300-4, is eligible provided arrangements are made that will preclude the obstruction from being recreated. Where an aeronautical study conducted under FAR Part 77 determines that marking or lighting will mitigate the hazard, such marking and lighting would also be eligible.

583. BIRD HAZARDS. If the regional bird hazard control group, as established in FAA Order 5200.6, determines that an airport bird hazard exists or may result because of planned construction activities or airport expansion, work conducted to reduce bird hazards is eligible providing the actions taken will produce a long-term reduction in airport bird populations. The following types of work are eligible:

a. Removal of a bird attraction through habitat modification such as improving airport drainage; elimination or modification of manmade structures used by birds for nesting or roosting; purchase of contiguous land or easements to remove a bird attraction adjacent to the airport; clearing, grading, and reseeding airport land to reduce habitat diversity. APP-510 shall be consulted prior to programming any items within this subparagraph.

b. Acquisition of bird hazard reduction equipment for bird patrols including cassette tape decks and public address systems for broadcasting bird distress calls, exploding gas cannons, shotguns, and pyrotechnic pistols. Expendable items such as shotgun shells, chemicals, and pyrotechnic devices are not eligible.

584.-589. RESERVED.

SECTION 9. MISCELLANEOUS

590. BLAST FENCES. Blast fences are eligible when they are needed for safety and are more economical than the acquisition of additional property interests or the expansion of an apron.

591. LANDSCAPING AND TURFING.

a. Landscaping and turfing are only eligible to the extent that they are a cost associated with an AIP project and are necessary for erosion control or to meet State and local construction codes or standard construction practices. Decorative landscaping for aesthetic purposes is not an allowable cost of the project. Where a sponsor desires to include decorative landscaping with a project, those costs must be prorated and the decorative landscaping disallowed.

b. See Chapter 7 for landscaping for noise mitigation.

592. ULTRALIGHT FACILITIES.

a. Land and construction for ultralight operations at an existing airport are eligible if they are necessary for safety or capacity purposes and if the airport itself is eligible for grant funding.

b. Establishment of a new ultralight airport is not eligible.

593. CONSTRUCTION SITE PROJECT SIGNS. Project signs at an airport construction site are not required, but, if erected, may be an eligible cost item if:

a. The construction project includes at least $200,000 of Federal funding and will be underway for at least 3 months;

b. The sign shall contain at least a brief description of the project and the following statement:

"Part of the funding for this project is being provided by a grant from the Airport Improvement Program which is administered by the Federal Aviation Administration and financed through the Airport and Airway Trust Fund."

c. Federal participation in the cost of the sign shall be limited to $500.

594. RELOCATION OF ROADS AND UTILITIES. The relocation of roads or utilities is eligible if they constitute airport hazards or impede eligible airport development. The following restrictions apply:

a. Participation is limited to the cost of a like road or utility, except that a road may be brought to current standards and an above ground utility may be replaced by an underground utility;

b. The utility company is often required to fund relocations under provisions of its easement; therefore, utility relocation is eligible only if the sponsor is legally obligated to fund the work and the sponsor's attorney so certifies. (See paragraph 802.)

595. PURCHASE, RELOCATION, OR DEMOLITION OF NONELIGIBLE BUILDINGS. Eligible portions of terminals notwithstanding, Section 513(e) of the AAIA prohibits funds to be expended on the construction, alteration, or repair of a hangar or of any part of an airport building except buildings or parts of buildings intended to house facilities or activities directed related to safety. However, existing

noneligible buildings located on the airport that constitute airport hazards or impede eligible airport development may be purchased and relocated or demolished, subject to the following criteria:

a. Sponsor-owned Buildings. A sponsor may choose to either relocate or demolish a building which it owns. The costs associated with the demolition of the building and the removal are eligible, minus any salvage value. For sponsor-owned buildings which are to be relocated, the Federal share would be limited to the estimated costs to demolish and remove the building. The cost to the sponsor of extinguishing a lease for the building or the parcel upon which it is located is an incidental cost to its removal and is also eligible.

b. Nonsponsor-owned Buildings.

(1) Purchase. The purchase of the building from an owner other than the sponsor or the Federal government for its market value and the costs associated with its demolition and removal are eligible. Any salvage value realized will be deducted from the project costs in determining the Federal share.

(2) Relocation. The cost of relocating a building not owned by the sponsor or the Federal government to another location on the airport in lieu of its purchase is eligible up to the market value of the building. Costs incidental to the relocation such as extinguishing a lease (if appropriate) or new footings or floors may be included in the costs.

c. Replacement Buildings. AIP funds may not be used under any circumstances to construct a replacement hangar, ATCT, or other buildings on the airport, except those which are identified as eligible in this chapter.

d. Federally-owned Buildings. Only demolition and removal costs of federally-owned buildings are eligible under AIP.

e. Structures Located on Land to be Acquired for Airport Purposes. The cost of a structure on land which is to be acquired for airport purposes is allowable if:

(1) The structure is to be demolished. Any salvage value realized will be deducted from the project costs in determining the Federal share. If the structure is to be removed at a later date (for example, 5 years), the sponsor may use the structure for any incidental purposes it deems desirable (provided it does not interfere with the primary purpose of the airport). Any revenue (at fair rental value) received during the period between acquisition and demolition of the structure constitutes airport revenue and is to be used according to the assurance dealing with revenue. If a decision is made not to demolish the structure, then the sponsor will be responsible for reimbursing the grant program the Federal government's share of the cost of acquisition attributable to the structure.

(2) The structure is to be used by the sponsor as a grant eligible facility (for example, an ARFF facility or a storage facility for snow removal equipment).

(3) The cost of a structure on land which is to be acquired for airport purposes is not allowable if the structure is to remain on the land or is to be relocated and will be used by the sponsor for a purpose which would not be eligible for grant funds. For example, if a hangar exists on the property to be acquired and the sponsor wishes to retain the hangar, then the appraised cost of the hangar would not be allowed as an eligible item. However, if the structure is to be relocated because its present location constitutes an airport hazard or impedes eligible airport development, then such relocation would be eligible up to the estimated costs to demolish and remove.

596. ENVIRONMENTAL MITIGATION PROJECTS AS AIRPORT DEVELOPMENT. An environmental mitigation project is eligible as airport development if it is a condition of approval of an environmental action associated with an airport development project.

597.-599. RESERVED.

CHAPTER 6. LAND ACQUISITION PROJECTS
SECTION 1. LAND ACQUISITION

600. GENERAL.

a. The acquisition of or any interest in land is eligible when it is necessary for airport purposes, provided the land was acquired after the date of enactment of the Federal Airport Act, May 13, 1946. All real property acquired for AIP purposes shall be supported by a real estate appraisal. The term "necessary," as used in the first sentence above, is relative and need not be so narrowly applied as to limit land acquisition to the minimum presently required for the airport. The acquisition of land or any interest in it necessary for future as well as current airport development purposes shall be encouraged.

b. The approved ALP serves as a primary basis for determining the areas of land necessary for the airport. Generally, land necessary for airport purposes includes the building areas, landing area, runway protection zones, approach areas, areas for noise compatibility, and offsite areas required for airport utilities, such as sewage, drainage, power, and obstruction lighting.

c. Eligible land acquisition will normally be fee simple; however, some lesser interest may be acquired if that interest is legally sufficient for the purpose of the grant. It may also include extinguishment of easements or other interests in land held by others, such as mineral rights, which interfere with or might adversely affect the development or operation of the airport.

d. Existing property lines and boundaries created by nature such as rivers and manmade development (highways, railroads, etc.) should be recognized in delineating areas of land to be acquired. There will be instances where it is prudent for a sponsor to acquire an entire parcel of land rather than a specific portion which is the minimum needed for airport projects. This excess land should be treated in accordance with paragraph 602g of this Order. This will occur where the owner of the parcel will not sell the portion required for the airport because of loss resulting from severance of the remainder, or where the entire parcel can be purchased for approximately the same price as the portion required for airport purposes.

601. RELOCATION AND REAL PROPERTY ACQUISITION ASSURANCES. For projects that include the acquisition of real property or which result in the relocation of any person or business, the sponsor must satisfy certain requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing DOT regulations. Information on these requirements is contained in Order 5100.37, Land Acquisition and Relocation Assistance for Airport Development Projects.

602. LAND ACQUISITION FOR CURRENT AIRPORT DEVELOPMENT. The acquisition of land or any interest in land for current airport development is eligible when necessary for:

a. The Landing Area. Runways, taxiways, associated safety areas, ramps, aprons, and the land adjacent to these facilities required by current standards for separation and clearance. Land for ultralight operations at an existing airport is eligible when necessary for safety or capacity purposes and if the airport itself is eligible to receive grant funding.

b. The Airport Approach Area. The approach zones (including runway protection zone), horizontal, conical, and transitional zones at airports required to convey a right of flight. This also includes the right to remove existing obstructions and to restrict the establishment of future obstructions (see Chapter 5, Section 8). As used in this paragraph, zone means land lying under the appropriate Part 77 surface.

(1) Runway Protection Zone. The sponsor should be strongly encouraged to acquire fee title to all land within the runway protection zone, with first priority given to land within the Object Free Area. Structures or activities located on this land must be removed unless excepted by the regional Airports Division manager or needed for air navigation aids. If the fee title acquisition is impracticable an avigation easement is required. This easement must convey the right of flight with inherent noise and vibration above the approach surface, the right to remove existing obstructions, and a restriction against the establishment of future obstructions. The cost of removing structures is an eligible project cost. The grant agreement must contain the special condition in Appendix 9, paragraph 12, which obligates the sponsor to protect the runway protection zone.

(2) Approach and Tran********
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******pproach zones, except for noise compatibility, fee simple acquisition beyond 5000 feet from the end of the existing or proposed primary surface will not normally be eligible.

(3) Horizontal and Conical Zone. Zoning will normally be adequate to provide the necessary rights and protection above the entire horizontal and conical surface. In any case where an easement or fee title acquisition is needed to provide such rights, special justification should be included in the project file to document such need.

c. The Building Area. Airport terminal and administrative buildings, hangars, equipment buildings, fixed base operator buildings, other airport buildings needed in connection with the operation and maintenance of the airport. The building area also includes the tie-down area, transient parking apron, automobile parking, access roads, and walks. Land acquisition for development of industrial or nonaeronautical commercial building areas is ineligible.

d. Navigational Aid Facilities. The installation, operation, and maintenance of sponsor-owned navigational aids, whether within or outside of the airport boundary, including a relocation site for Federally-owned navaids if relocation is required by airport development and if the sponsor is responsible for such relocation. (See paragraph 305.)

e. Airport Utilities. Rights-of-way for drainage, sewage, storm water runoff, utility lines, etc., that are located outside the airport boundary.

f. Airspace Conflicts. The resolution of a conflict caused by the proximity of two or more airports, which cannot be resolved by an acceptable operational or design alternative. Allowable costs for resolving such conflicts are limited to the lesser of the following:

(1) The appraised value of acquisition of any easement or of placing a restrictive covenant on the property necessary to permit full development and use of facilities eligible for AIP grants-in-aid. The value of the easement or restriction must be based on appraisals using the before-and-after method methodology described in paragraph 75, Order 5100.37.

(2) An amount equal to the difference in cost between fee simple acquisition of the property and the resale of the property at full market value after imposition of appropriate restrictions to allow airport development. If this method is used, the sponsor should be cautioned that the Uniform Relocation Assistance and Real Property Acquisition Policies Act may apply, depending upon the sponsor's acquisition techniques. Relocations costs, however, are not allowable since relocation of occupants is not necessary for acquiring air rights in these situations. Also, the grant may not include any provision for directly paying sponsor costs of fee simple acquisition.

g. Treatment of Unneeded Real Property. Normally, AIP funds maybe used to pay the Federal share of the cost of acquiring only such land as is needed for airport or noise compatibility purposes. However, where the sponsor must acquire a tract of land in excess of airport needs and where the land or improvements will be immediately disposed of, the grant may be based on the full value of the parcel, including that part which is excess. The net proceeds from the sale shall be deducted from the grant amount before project closeout. In those cases where the sponsor does not intend to sell the excess property immediately after acquisition, the amount of the purchase price attributable to such property shall not be included in the grant. If, after having originally selected the option of immediate disposal, the sponsor elects after grant award to retain any property for nonaeronautical purposes, the amount attributable to the property shall be deducted from the grant.

h. Retention for Noise Purposes. See Section 2 of Chapter 7.

603. LAND ACQUISITION FOR FUTURE AIRPORT DEVELOPMENT.

a. General. Acquisition of land for future airport development is eligible. "Future development" is considered to be the development of a facility more than 5 years after acquisition. A sponsor may consider such land acquisition in planning a new airport or in the orderly development of an existing airport. Federal participation must be justified, taking into consideration such factors as rising land costs, encroachment on available land by incompatible uses and development, and the probable unavailability of land for airport use in the future. The acquisition of land for future airport development must meet the requirements of the National Environmental Policy Act (NEPA) of 1969, as implemented by Orders 1050.1 and 5050.4.

b. Requirements. No project to acquire land for future airport development shall be approved unless the following requirements have been satisfied:

(1) There is a valid aeronautical need for the land;
(2) The site selected has been approved by the FAA;
(3) Airspace clearance for the site has been granted; and
(4) There is an approved airport layout plan.

c. Special Conditions. The grant document shall include special conditions in Appendix 9, paragraph 10.

d. Treatment of Unneeded Real Property. See paragraph 602g.

604. LAND ACQUISITION FOR NOISE COMPATIBILITY.

a. The acquisition of, or interest in, land to ensure that such land is used only for purposes compatible with the noise level of the airport is eligible provided (see paragraph 711):

(1) It is an element of a noise compatibility program approved by the FAA pursuant to FAR Part 150;

(2) It is reimbursement for noise land acquired through FY 1986 or it was a noise compatibility project included in a multi-year grant which was entered into prior to FY 1987. In either of these cases, the project must have been an element of a noise compatibility program determined by the FAA to be substantially consistent with the purposes of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses under Section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979; or

(3) It is required as a mitigation measure upon which approval of an environmental action associated with an airport development project is conditioned.

b. Eligibility Limitation. Land outside the DNL 65 dB contour in the noise exposure map (current or 5-year) is not eligible.

605. ACQUISITION OF A PRIVATE AIRPORT BY A PUBLIC SPONSOR.

a. General. The acquisition of a private airport by a public sponsor will normally include acquisition of lands already developed as a privately owned airport and of all structures, fixtures, and improvements constituting a part of the realty.

b. Highest and Best Use - As an Airport. The value of structures, lands, or other development, which would be ineligible for inclusion in a construction or land acquisition project under the AIP, may not be included in the grant amount when the appraisal is based on the highest and best use as an airport.

c. Highest and Best Use - Other Than an Airport. If the basis of an appraisal is the highest and best use other than as an airport, the grant may be based on the entire appraised estimate of value.

d. Legal Review. A legal review shall be made of the agreement of sale to ensure that the sponsor can carry out all of the grant obligations. Particular attention should be paid to any on-going agreements with former owners.

606. LAND ACQUISITION AT A PRIVATELY-OWNED PUBLIC USE AIRPORT.

a. Eligibility of Land. The eligibility of land acquisition at privately owned public use airports is limited to that land necessary for landing areas (including helipads), taxiways, aprons, associated safety areas, and runway protection zones or land necessary to improve safety.

b. Ineligibility of Land.

(1) Land acquired prior to receipt of a preapplication is ineligible for reimbursement.

(2) The acquisition of land for an entire airport for a private sponsor is ineligible.

c. Full Disclosure. The sponsor must provide full disclosure of any prior interest it may have had in any land proposed for acquisition. Where such interest exists or existed, the field office should contact APP-510 for guidance.

607. LAND ACQUISITION FROM A STATE/LOCAL PUBLIC AGENCY. The field office shall determine that land acquired from another public agency is, in fact, a bona fide sale to the sponsor, and that such land was not transferred merely for the purpose of making the land eligible.

608.-609. RESERVED.

SECTION 2. TITLE AND PROPERTY INTEREST

610. TITLE REQUIREMENT. Section 509(b)(2) of the AAIA requires that no project grant application for airport development may be approved by the Secretary unless the sponsor, or a public agency, or the United States holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefore, or gives assurance to the Secretary that good title will be acquired.

611. TITLE FOR LANDING AND BUILDING AREAS.

a. General. Title with respect to lands to be used for landing area or building area purposes can be either fee simple title (free and clear of any and all encumbrances), or title with certain rights excepted or reserved. Any encumbered title must not deprive the sponsor of possession or control necessary to carry out all obligations under the grant. A deed containing a reversionary clause, for "so long as the property is being used for airport purposes," does not negate good title provided the other conditions are satisfied. Where rights excepted or reserved would prevent the sponsor from carrying out its obligations under the grant, such rights must be extinguished or subordinated prior to approval of the project.

b. Airport Property Subject to a Mortgage. The existence of a mortgage on the airport property, in and of itself, is not a sufficient reason to render such project ineligible. However, the sponsor's ability to meet the principle and interest payments on the mortgage must be determined prior to the approval of the project.

c. Lease of Aeronautical Land. Private airport sponsors must own the landing and building areas and may not be a lessee of land for aeronautical purposes. In those instances where the public sponsor's title consists of a long-term lease, such title is satisfactory provided the following conditions are met:

(1) If the landing area is leased, the lessor must be a public agency;

(2) The sponsor has a long-term lease (minimum of 20 years from the date of the grant) to all landing areas and building areas;

(3) The lease contains no provision which prevents the sponsor from assuming any of the obligations of the grant agreement;

(4) That consideration for the entire lease be paid in advance. However, this condition may be waived if the sponsor has adequate financial resources to assure future lease payments.

612. TITLE FOR OFF-AIRPORT AREAS. Property interests required in off-airport areas (see paragraph 303) must be sufficient to assure that the sponsor will not be deprived of its right to occupy and use such lands for the purposes intended.

613. DETERMINATION OF ADEQUATE TITLE. A certification by a sponsor that it has acquired property interests required for a project may be accepted in lieu of any detailed title evidence and need not be submitted to the Regional Counsel unless the regional Airports Division Manager considers legal review necessary. Without such certification, the sponsor's submission of title evidence must be reviewed to determine adequacy of title. The adequacy of such title is an administrative determination made by Airports personnel and need not be submitted to Regional Counsel for review unless there is reason to suspect title is not adequate.

614. TITLE REQUIREMENT PRIOR TO NOTICE TO PROCEED. Authorization for the sponsor to issue a notice to proceed with construction work should not be given until it has been determined that

the required property interests have been acquired in the land on which construction is to be performed. See paragraph 1203 for more information.

615.-619. RESERVED.

SECTION 3. LAND COSTS

620. GENERAL. The purchase price or cost of land, including costs incidental to the acquisition of any property interest necessary for airport purposes including appraisal costs, is allowable provided such costs are necessary and reasonable in amount. Sponsor costs for obtaining title insurance for lands it purchased are not allowable. The sponsor must submit appraisals to support the cost of acquisition.

621. RELOCATION COST.

a. General. The cost incurred by the sponsor to meet the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is eligible for Federal assistance as project costs except that the Federal share of the cost incurred by the sponsor of providing payments and assistance under the Act from January 2, 1971, through June 30, 1972, is 100 percent of the first $25,000. (See Order 5100.37.) See special condition in Appendix 9, paragraph 4.

b. Examples of Relocation Costs:

(1) Moving expenses;
(2) Replacement housing payments;
(3) Rent supplements;
(4) Down payments;
(5) Mortgage interest differentials or mortgage buy downs;
(6) Incidental expenses in connection with the acquisition of replacement housing;
(7) Advisory services;
(8) Preparation of feasibility studies and relocation plans.

622. REIMBURSEMENT FOR LAND PREVIOUSLY ACQUIRED. The grant shall be based on the value of the land at the time it was acquired by the sponsor. Where it is necessary to substantiate the reasonableness of cost of land previously acquired, an examination of the facts surrounding the transaction should be made. If the sponsor, at the time of acquisition, did not obtain and use appraisal reports, a historical appraisal shall be prepared. AIP funds will not be used to reimburse private sponsors for land acquired prior to receipt of a preapplication.

623. LAND ACQUIRED THROUGH CONDEMNATION. The cost of land or property interest established by the courts in a condemnation proceeding may be accepted as a reasonable cost, even though above current appraised value. However, if the FAA has reason to believe that the court award is excessive, the sponsor should be requested to appeal the award. While infrequent, there have been cases where the amount of the original award has been reduced on appeal because it was found to be excessive and unreasonable. There have been other cases where the condemner, after withdrawing from the proceeding because of excessive amount of the award, obtained the land involved by negotiation or subsequent condemnation at a lower price. Attorney fees, interest, and other incidental expenditures included in a court award to land owners in a condemnation action may be included as project costs.

624. LAND EXCHANGE. The acquisition of land required for the airport, through the exchange of other land owned by the sponsor, constitutes an eligible project cost. In such cases, the value of the sponsor-owned land will be determined in the same manner in which the value of donated land is established. In the case of a donation (see paragraph 351), the maximum value eligible for Federal participation is the fair market value at the time the property was conveyed to the sponsor, as determined

by independent appraisal. Therefore, if the sponsor acquires property from some third party through the exchange of other property it owns, it may seek reimbursement from the FAA for the appraised fair market value of its property at the time that property was originally conveyed to it.

625. LAND LEASES. Lease payments in the form of periodic rental payments for use of land owned by another public agency are considered to be operating costs and are not eligible. However, prepaid rent, which is payment in full in advance for the full term of the lease, is eligible.

626. NONALLOWABLE LAND COSTS. See Appendix 2 for nonallowable land costs.

627.-629. RESERVED.

SECTION 4. AIRPORT REVENUE

630. AIRPORT REVENUE. Airport revenue is revenue generated by facilities and activities on or off airport. Examples of airport revenue include revenue from service fees, landing fees, lease or rental fees, usage fees, sale of commodities such as agricultural or forest products, proceeds from mineral sales, or other net revenue produced from real property. It also includes local fuel taxes on aviation fuel enacted after December 30, 1987. As used here, the term "net revenue," means the gross revenue, less any usual and customary administrative or maintenance expenses associated with property management. Airport revenue does not include proceeds from the sale of real property owned by the sponsor. Sales proceeds are addressed in paragraph 626 of this handbook and in Order 5190.6. Questions regarding what, in specific instances, constitutes airport revenue should be directed to AAS-310.

631. USES OF AIRPORT REVENUE.

a. Section 511(a)(12) Requirement. Under section 511(a)(12) of the AAIA, sponsors must provide assurance that all revenue generated by their airport, if it is a public-owned airport, will be expended for the capital or operating costs of the airport, the local airport system or other local facilities which are owned or operated by the sponsor and directly and substantially related to the actual air transportation of passengers or property. This requirement appears as Assurance 25 in the Assurances for Airport and Planning Agency Sponsors though it does not apply to planning projects.

b. Exceptions to Section 511(a)(12) Requirement. Section 511(a)(12) does not apply to planning agency, private, or nonairport sponsors. Additionally, the section itself contains language exempting certain sponsors from this limitation "if covenants or assurances in debt obligations**********
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**********e applicability of the exemption in particular cases.

632. DISPOSAL OF LAND. Land that initially had an aeronautical purpose, but is no longer needed for such purpose, shall be disposed of in accordance with Order 5190.6 and such proceeds shall be handled in accordance with paragraph 1531 of this handbook.

633.-699. RESERVED.

CHAPTER 7. NOISE COMPATIBILITY PROJECTS

SECTION 1. GENERAL

700. GENERAL. The Aviation Safety and Noise Abatement (ASNA) Act, as amended by the AAIA and the AAIA Amendments of 1987, permits the FAA to provide funds for projects at both commercial service and general aviation airports to carry out an FAA-approved noise compatibility program (NCP) and noise insulation projects in public buildings used primarily for educational or medical purposes. Grants for such projects may be made to airport sponsors as well as to eligible public agencies not owning airports nonairport sponsors). Environmental mitigation projects will be funded as airport development (see paragraph 596 of this Order).

701. PROJECT ELIGIBILITY. A proposed noise compatibility project is eligible for Federal participation if:

a. It is an element of a noise compatibility program (NCP), as described under section 104(c)(1) of the ASNA Act, prepared by the airport sponsor and approved by the FAA in accordance with FAR Part 150; or

b. It is a project to provide noise insulation for a public building which is:

(1) Used primarily for educational or medical purposes in the noise impact area surrounding public airports, and

(2) Determined to be adversely affected by airport noise; or

c. It is reimbursement for costs which were incurred:

(1) After June 1, 1989, by the airport operator,

(2) Before, on, or after the execution of the grant agreement,

(3) To implement a part of the airport sponsor's approved NCP (including project formulation costs, and

(4) In accordance with all applicable statutory and administrative requirements.

702. SPONSOR ELIGIBILITY.

a. Airport Sponsors. Noise compatibility projects may be carried out by eligible airport sponsors as described in Chapter 2.

b. Nonairport Sponsors. Noise compatibility projects may also be carried out by units of local government which are not airport sponsors. Section 104(c)(1) of the ASNA Act requires local governments to have the capability to carry out the projects for which applications are made. Though any unit of local government meeting this criterion is eligible, the FAA should encourage sponsorship by those units of local government with the widest or most direct authority for land use control so as to obtain more effective compliance with the compatible land use assurance.

703. COSPONSOR. Any two or more units of local government may cosponsor a noise compatibility project, provided that such units jointly or severally are eligible sponsors. An airport sponsor may be a cosponsor on such a project. Cosponsorship should be encouraged, particularly where it would contribute to more effective compatible land use commitments on the part of local governments having jurisdiction over land use.

704. APPLICABILITY OF AAIA PROVISIONS. Section 104(c)(1) of the ASNA Act states that all of the provisions applicable to AIP grants shall be applicable to any grants for noise compatibility projects.

Therefore, requirements pertaining to DBE, Davis-Bacon, NEPA, E.O. 12372, etc., apply to noise compatibility projects. (AGC Opinion, Aug. 24, 1983.)

705. ENVIRONMENTAL CONSIDERATIONS. Order 5050.4 indicates which noise compatibility projects require an environmental assessment and which are categorically excluded. Contact the Community Environmental Needs Division (APP-600) for assistance in this area.

706. AGREEMENTS FOR NOISE COMPATIBILITY PROJECTS ON PUBLIC PROPERTY NOT OWNED BY THE SPONSOR.

a. General. When a noise compatibility project is located on public property not owned by the sponsor, Assurance 5 requires the sponsor to enter into an agreement with that unit of local government to ensure that such a beneficiary complies with the same general requirements to protect the Federal investment, regardless of whether or not it "sponsors" the project. The agreement should be modeled on the Nonairport Sponsors assurances (see Appendix 1) and may take one of two forms, depending on whether the noise compatibility project is sponsored by an airport sponsor or a nonairport sponsor. The specific assurances which should be incorporated into each agreement are listed below, although circumstances unique to the project, sponsor, or unit of local government may require ad hoc variations. For example, when the sponsor is administering the procurement and construction, and the other unit of local government is not directly involved in project accomplishment, Assurances 8, 9, 10, 11, and 12 need not be incorporated into the agreement.

b. Agreements Between Airport Sponsors and Nonsponsoring Units of Local Government. Except as discussed in subparagraph a., the agreement between the airport sponsor and the nonsponsoring unit of local government should incorporate the substance of the following nonairport sponsor assurances, as applicable:

(1) Assurance 1, General Federal Requirements. It is only necessary to include the first paragraph. Reference to and listing of laws and regulations may be deleted;

(2) Assurance 2, Responsibility and Authority of the Sponsor;

(3) Assurance 3b, Sponsor Fund Availability;

(4) Assurance 8, Accounting System, Audit, and Recordkeeping Requirements;

(5) Assurance 9, Minimum Wage Rates;

(6) Assurance 10, Veterans Preference;

(7) Assurance 11, Conformity to Plans and Specifications;

(8) Assurance 12, Construction Inspection and Approval;

(9) Assurance 13, Operation and Maintenance;

(10) Assurance 16, Reports and Inspections;

(11) Assurance 17, Civil Rights.

The airport sponsor may also add any other terms and conditions, consistent with the assurances, that it believes are necessary.

c. Agreements between Sponsoring and Nonsponsoring Units of Local Government. Except as discussed in subparagraph a., an agreement between the sponsor and another unit of local government should include the following nonairport sponsor assurances, as applicable:

(1) Assurance 1, General Federal Requirements. It is only necessary to include the first paragraph. Reference to and listing of laws and regulations may be deleted;

(2) Assurance 2, Responsibility and Authority of the Sponsor;

(3) Assurance 3b, Sponsor Fund Availability;

(4) Assurance 8, Accounting System, Audit, and Recordkeeping Requirements;

(5) Assurance 11, Conformity to Plans and Specifications;

(6) Assurance 12, Construction Inspection and Approval;

(7) Assurance 13, Operation and Maintenance;

(8) Assurance 14, Hazard Prevention;

(9) Assurance 15, Compatible Land Use;

(10) Assurance 17, Civil Rights.

The nonairport sponsor may also add any other terms and conditions, consistent with the assurances, that it believes are necessary.

707. PROJECTS ON PRIVATELY OWNED PROPERTY - CONDITION IN GRANT AGREEMENT.

a. Requirement for Agreement. Assurance 5 requires the sponsor and the private property owner to enter into an agreement that contains provisions specified by the Secretary. To aid in satisfying this requirement, the special condition in Appendix 9, paragraph 8, shall be included in the grant agreement.

b. Responsibility for Operation and Maintenance. The purpose of requiring item 2 of the special condition is to establish that the owner is responsible for maintenance and operation of the noise compatibility improvements, not that the owner is required to conduct any specific operation and maintenance activities. In the case where the private property is a parochial school, for example, this condition should not be construed to mean that the owner is obligated to operate the facility as a school for the useful life of the noise compatibility measures. It should generally be understood, however, that noise compatibility projects should be implemented only in those buildings that can reasonably be expected to be used for a period of time equal to or exceeding the useful life of the project.

708. EASEMENT IN CONJUNCTION WITH SOUNDPROOFING. A grant under the AIP may not include a requirement that a property owner donate an easement (or other property interest) to the airport sponsor in exchange for noise insulation. FAA policy, however, encourages sponsors to work out such voluntary arrangements locally, exclusive of FAA grant stipulations. Alternatively, the airport sponsor may agree to acquire an easement at the time the structure receives noise insulation. See paragraph 711 for additional discussion of easement acquisition.

709. REVENUE FROM NOISE COMPATIBILITY PROJECTS. In some noise compatibility projects, sponsors may acquire property which produces a net revenue, such as rents and royalties. Such revenue
earned prior to final project closeout shall be deducted from the total cost of that project for determining the net costs on which the grant will be based. (See Section 3 for the use of proceeds from the disposal of land acquired for noise compatibility.)

SECTION 2. NOISE COMPATIBILITY PROJECTS

710. GENERAL.

a. Eligible noise compatibility projects generally fall into the following categories: land acquisition, noise insulation, runway and taxiway construction (including associated land acquisition, lighting and navaids), noise monitoring equipment, noise barriers and miscellaneous. Sponsors may from time to time propose noise compatibility measures not described in this section. In such a case, contact APP-600 for assistance in determining the scope of FAA approval in the sponsor's NCP; contact APP-510 for assistance in determining the scope of eligible work in such proposals.

b. Noise compatibility projects usually must be located in areas where noise measured in day-night average sound level (DNL) is 65 decibels (dB) or greater. However, projects may also be eligible in areas of less noise exposure where the airport sponsor has determined that noncompatible land uses exist and the FAA has concurred in that determination and approved the sponsor's noise compatibility proposals for the affected area. Contact APP-600 for assistance related to such determinations. In addition, projects may be expanded to include a few otherwise ineligible parcels contiguous to the project area, if necessary to achieve equity in the neighborhood. Other projects which produce community-wide benefits (development of a noise attenuation standard in a local building code, for example) are also eligible.

c. Individual recipients (e.g., homeowner or school) of noise compatibility projects may be entitled to more than one mitigation measure if the additional measures are approved in the sponsor's NCP, enhance land use compatibility, provide additional protection for the airport, and the total cost of the measures is reasonable in relation to the property value. For example, noise insulation may be combined with acquisition of an easement; or a sponsor may acquire residential property and install noise insulation before offering it for resale.

d. Noise compatibility proposals which are not eligible under the AIP include development of new flight procedures, projects which are not described in sufficient detail to determine their noise mitigation benefits, projects which cannot be implemented by an eligible sponsor, operational or administrative costs of a sponsor's ongoing noise mitigation program, and demonstration programs intended to test the effectiveness of new noise mitigation technology. (See Appendix 2.)

711. ACQUISITION OF LAND OR INTERESTS IN LAND FOR NOISE COMPATIBILITY. Both airport and nonairport sponsors are eligible to acquire land for noise compatibility purposes. Acquisition may occur under three general conditions

a. Land Acquisition to Change Land Use. Procedures and requirements for such acquisition are identical to those outlined in Chapter 6 of this Order, in the Uniform Relocation Assistance and Real Properties Acquisition Policies Act (the Uniform Act), as amended, and in 49 CFR Part 24. The following factors should also be considered when acquiring land for noise compatibility purposes when the objective is to convert to compatible uses.

(1) The FAA should work closely with the sponsor in such land acquisition projects to develop a long-term plan for land reuse. (See paragraph e. below regarding the land disposal assurance.)

Land acquisition projects should include development of land use conversion, economic feasibility, and marketing plans to ensure that subsequent land uses are consistent with local land use plans and policies, including compatibility with noise exposure levels in the area, and that the sponsor recoups a reasonable amount upon resale. Such planning is eligible in conjunction with a land acquisition project or as a separate project. However, costs to implement the marketing plan are not allowable. (See Section 3 of this Chapter and Order 5190.6 on the use of resale proceeds.)

(2) Costs attributable to preparing land for resale may be deducted from the proceeds of disposal, but are not allowable costs under a grant. Such costs may include, but are not limited to, removal of structures, rezoning, replatting and upgrading of utilities and services. Costs associated with holding land are not allowable under a grant, nor may they be deducted from the proceeds of resale. Such holding costs may include, but are not limited to, property taxes assessed against the sponsor during the period of ownership, charges for utilities and public services, insurance, financing charges and assessments.

Example: A sponsor acquires 10 parcels of land for a total cost of $1.0 million; the sponsor removes all structures, assembles the parcels into one marketable unit, prepares requests for zoning changes, resurveys, determines consistency with local land use plans and files necessary documents with local officials; utilities and public services improvements are made at sponsor expense; a marketing plan is prepared and the property is sold for $750,000. The proceeds of the sale are calculated as follows:

acquisition cost = $1,000,000 ($800,000 Fed/$200,000 local)	
development and sale costs:	
remove structures	$250,000
revise zoning, local plans, maps, etc.	100,000
improve utilities and public services	100,000
marketing and sales	50,000
total costs	$500,000
sales price	$750,000
less total costs	$500,000
net proceeds	$250,000 ($200,000 Fed/$50,000 local)

Note: Costs associated with holding the land (taxes, fees, assessments, insurance, etc.) may not be used in calculating the proceeds.

b. Land Acquisition Without Change to Land Use. An airport sponsor's approved NCP may include measures to acquire noncompatible land in a voluntary transaction for subsequent resale without changing the existing land use. The reason for acquisition is most often the owner's inability to sell the property at fair market value. In such cases, compatibility is usually achieved by the installation of noise insulation in the structure and the sponsor's retention of an easement, or similar interest, when the property is sold. Continued residential use of land inside the DNL 75 dB contours is considered noncompatible unless the airport holds an easement or similar interest. The following provisions apply to voluntary land acquisition projects:

(1) Acquisition procedures should be in accordance with chapter 6 and provisions in the Uniform Act and 49 CFR Part 24 relating to voluntary acquisition. In general, these transactions do not entail relocation benefits for residents.

(2) Noise insulation of acquired residential structures is eligible prior to resale. Preexisting noise insulation will not disqualify property from a voluntary acquisition program.

(3) The sponsor shall ensure that potential buyers are provided with an appropriate disclosure statement which describes the airport noise exposure on the property and the intention of the sponsor to retain an easement or similar interest.

(4) Before resale, the sponsor shall reserve an easement or similar interest permitting overflights and associated noise exposure.

c. Easements And Other Property Interests.

(1) Purchase of easements or similar property interests for noise compatibility is eligible if it is an approved element of a sponsor's NCP. Depending on local real estate laws and other site factors, sponsors may propose to acquire restrictive covenants, development rights, or other specified interests. The requirements and procedures applicable to acquisition of such property interests with Federal assistance are described in Chapter 6.

(2) The estimated or actual costs of acquiring easements should be carefully reviewed prior to approving the project or approving payment to the sponsor. Easements are difficult to appraise because of limited market information and a general reluctance of real estate appraisers to thoroughly analyze the data that is available. Consequently, the appraised values for such interests have varied widely from one location to another. (Procedures for appraising the value of an easement are located in FAA Order 5100.37.) When the cost for acquiring easements seems disproportionately high, the FAA office administering the project should consider whether it meets the reasonable cost criterion as discussed in paragraphs 310 and 1022. When costs appear to be unreasonable, airport sponsors should be encouraged to consider revising the NCP, delaying acquisition, or developing other means to achieve compatibility.

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***************** acquisition is eligible. In such cases, it is advisable to urge the sponsor to first consider acquisition of an interest less than fee simple (e.g., development rights, easement). If fee simple acquisition is approved, the sponsor should be advised of the requirement for timely disposal.

e. Sponsor Assurance Regarding Disposal of Land Acquired for Noise Compatibility. Section 511(a)(13) of the AAIA imposes the requirement on sponsors who have received grants to acquire land for noise compatibility purposes that such land be disposed of when no longer needed for noise compatibility purposes. See Section 3 of this Chapter for the use of proceeds from the sale of such land; see Chapter 6 for disposal policy and procedures.

712. NOISE INSULATION PROJECTS.

a. General. Noise insulation, if approved in an airport sponsor's NCP, or if qualified as a public school or public hospital under section 104(c)(3) of the ASNA Act, as amended, is eligible under the AIP. Eligible sponsors include units of local government having jurisdiction over the project location, airport sponsors, and special purpose units of local government (e.g., school and hospital districts). Eligible structures include residences (single family and multi-family), schools, hospitals, churches, and other buildings identified as noncompatible in the sponsor's NCP. In addition, noise insulation may be installed in publicly owned buildings near an airport without an approved NCP if the buildings are used for educational or medical purposes and they are determined to be adversely affected by airport noise.

(1) Unless specifically justified by the airport sponsor in its NCP and approved by the FAA, the structure must be located within a DNL 65 dB contour. Normally, unless extenuating circumstances dictate, noise insulation should not be considered for structures within a DNL 75 dB or greater noise contour since it is preferable to change the land-use.

(2) The purpose of noise insulation projects is to reduce the adverse impact of airport-related noise on building occupants or residents. These projects are not intended to compensate for inadequate maintenance, to bring nonconforming structures up to building code standards, or to improve the comfort or attractiveness of a building, although these benefits may result indirectly from the project. Therefore, if a noise insulation project requires that new windows be installed, or that upgraded electrical service be provided for ventilation equipment to achieve noise reduction objectives, the costs associated with those work elements are allowable costs. If, however, it is determined in the course of designing a project that a building needs several improvements to conform with local building codes, the costs of such improvements are not allowable under the grant program.

(3) Where noise insulation is being proposed as a single project for a large number of structures, and where a standard package of noise insulation improvements will be included, the qualifying criteria need not be so restrictively applied that it would prevent an incidental number of homes within the project area from receiving the standard package of improvements. For example, if acoustical windows are to be installed in a preponderant number of homes within the project area, eligibility may be extended to an incidental number of homes within the project area, even though they would not qualify for window installation if considered individually.

(4) Sponsors must certify to the FAA that the engineering plans and specifications for the noise insulation measures conform to the local building code.

(5) A NLR of 25-35 dB from exterior noise levels to interior levels usually can be achieved with some combination of window and door replacement, ceiling insulation, caulking, weatherstripping, and central air ventilation (or air conditioning as limited below) systems. Therefore, project eligibility will normally be limited to these measures plus "before and after" noise testing. APP-510 should be consulted if additional measures are recommended.

(6) Sponsors may offer air conditioning to proprietors of eligible structures in conjunction with noise insulation projects to carry out approved noise compatibility programs. This may be offered to recipients in lieu of a continuous positive ventilation system designed to provide two volume changes of air per hour (about that obtained with existing windows open). Either option preserves the noise attenuation benefits achieved with the insulation project by eliminating the need to open windows to maintain an acceptable level of indoor comfort. Two caveats should be discussed with sponsors and recipients who elect the air conditioning option:

(a) Federal participation in the cost of the air conditioning system is limited to the equivalent cost of an adequate positive ventilation system (e.g., ductwork, fans, upgraded electrical service where necessary). Additional costs for air conditioning may be shared in any way that is acceptable to sponsors and recipients.

(b) Property owners and residents should be presented with information about utility and maintenance costs for the additional equipment.

(7) While it cannot be required by the Federal government, sponsors should be encouraged to obtain a noise easement in return for the noise insulation provided by the project.

(8) Depending on local real estate assessment and taxing policies, sponsors and recipients should be alerted to the potential for increased property taxes as a result of the capital investment in the property.

b. Residential Noise Insulation.

(1) For residences located in areas where exterior noise exposure is DNL 65 dB, the requisite noise level reduction (NLR) provided by the structure should be at least 20 dB in major habitable rooms. The requisite NLR should be increased commensurate with any increase in exterior DNL above 65 dB.

(2) The design objective in a residential noise insulation project should be to achieve the requisite NLR when the project is completed. (This is mathematically equivalent to achieving a DNL of 45 dB in all habitable rooms.) The project design should be based on exterior DNL and the existing NLR in the structure.

(3) Since it takes an improvement of at least 5 dB in NLR to be perceptible to the average person, any residential noise insulation project will be designed to provide at least that increase in NLR.

(4) Examples.

(a) A residence located in an area where the DNL is 73 dB has existing NLR of 26 dB. The requisite NLR in that area is 28 dB (73 - 45). However, to meet the requirement for increasing the NLR by not less than 5 dB, a noise attenuation project for that residence should result in NLR of 31 dB (26 + 5).

(b) A residence located in an area where the DNL is 67 dB has existing NLR of 16 dB. The requisite NLR in that area is 22 dB (67 - 45). Therefore, the noise insulation project should be designed to increase the NLR by 6 dB (22 - 16).

c. Noise Insulation in Schools.

(1) For schools, the usual design objective for classroom environment is a time-average A-weighted sound level of 45 dB resulting from aircraft operations during normal school hours. As with residential noise insulation, a school project should reduce existing noise levels by at least 5 dB.

(2) Eligible school rooms include classrooms, libraries, offices, and other rooms for which noise insulation is specifically justified because of the substantial and disruptive effect of aircraft noise. Facilities, such as gymnasiums, cafeterias and hallways are usually not eligible.

d. Other Buildings. Churches, concert halls, offices, and other structures identified as noncompatible, and for which noise insulation has been recommended by the airport sponsor in its FAA-approved NCP, are also eligible. Such proposals should be evaluated carefully on a case-by-case basis and should involve consultation with APP-510 and APP-600.

713. NOISE MONITORING EQUIPMENT/SYSTEMS. A project for noise monitoring may be as modest as a few portable noise monitors or as extensive as a system of a dozen or more fixed monitors linked to a central processing unit, perhaps incorporating air traffic, weather and land use data. Such projects are eligible, subject to the following criteria:

a. Noise monitoring must be an approved item in the sponsor's NCP. Procurement of noise monitoring equipment in conjunction with master planning or noise compatibility planning is not eligible.

b. Nonairport sponsors (e.g., school districts, municipalities) are eligible only for portable noise monitoring equipment when used in connection with noise insulation projects managed by that sponsor. In cases where more than one sponsor is expected to engage in noise insulation programs, however, the airport sponsor should be encouraged to acquire the equipment and make it available to other local agencies as needed.

c. Eligibility for a fixed (permanent) monitoring system will be limited to circumstances where sponsors can clearly show that portable monitors would be inadequate. Fixed noise monitoring equipment is ineligible where the Part 150 noise exposure maps (existing and forecast) show no noncompatible land uses. In all cases, sponsors should be encouraged to acquire the least costly system that will satisfy the purposes used to justify the project.

d. A noise monitoring proposal should not be an end in itself, nor an instrument for enforcement of a noise rule or procedure. Rather, noise monitors should provide an ongoing stream of useful products and data in support of the overall noise compatibility program. A primary justification should be to provide information necessary to carry out other noise compatibility projects in the approved NCP, or to monitor progress in achieving noise compatibility objectives. Some sample uses of noise monitoring data include:

(1) Selection of dwelling units or other structures for noise insulation,

(2) Pre- and post-insulation interior/exterior noise measurement,

(3) Compliance with a monitoring requirement of State noise law,

(4) Aiding implementation of other noise compatibility projects, or

(5) providing noise data for future revision of the NCP.

e. Allowable costs include system design, noise monitoring equipment, dedicated data processing equipment and software, equipment installation, site preparation and one-time costs for installation of electrical power and data transmission lines. All costs for permanent monitoring systems should be minimized. Sponsors should be encouraged to obtain low cost monitoring locations by using existing utility poles and easements, accessible public land, or donated access to private property.

f. Costs for vehicles to be used in a noise monitoring program, general purpose computer software, operating costs, and equipment to be used only for public information purposes are not allowable.

714. NOISE BARRIERS. Noise barriers may be effective in certain locations to reduce adverse noise impacts, particularly from maintenance areas and loading gates. Generally such activities do not make a substantial contribution to total noise exposure, but single event occurrences may disrupt nearby classrooms or residences. Noise barriers, earth berms, wall structures, "hush houses" and other devices designed to shield areas from noise generated on the airport are eligible with the following provisions:

a. Noise barriers must be located and constructed in areas which benefit noncompatible uses affected by a single event ground operation noise that interferes with sleep and conversation. A single event noise reduction of at least 5 decibels should be realized at the nearest noncompatible land use.

b. The construction or installation must mitigate noise from a variety of airport users. For example, a hush house in the leased area of an air line maintenance facility is not eligible. If the airport sponsor proposes to designate an area on the airport for all engine runups, however, a noise barrier or hush house may be eligible to shield nearby areas from such activities.

c. Noise barriers must be designed to ensure that they do not violate airport design standards or Part 77 surfaces.

d. Landscaping costs in conjunction with noise barrier or berm construction are allowable only for materials necessary to stabilize soil against wind or water erosion.

e. If not done in conjunction with evaluation of alternatives in the Part 150 study, a cost-benefit analysis should be conducted which compares the effectiveness of the proposed noise barrier with other feasible alternatives, such as land acquisition and noise insulation.

715. MISCELLANEOUS NOISE COMPATIBILITY PROJECTS. The following types of projects, when they are approved measures in a sponsor's NCP, are eligible and the Federal share shall be calculated as for other noise compatibility projects:

a. Runway and Taxiway Construction. Runways and taxiways, including land acquisition, lighting and marking, if it can be shown that the primary purpose and benefit is noise relief. For example, if a proposed project is part of development shown in a master plan for capacity or safety purposes and has incidental noise benefits, it is not an eligible noise compatibility project. It may , however, be eligible as airport development.

b. Lighting and/or Visual Markers. Lights or other visual devices to help pilots fly specific noise abatement VFR flight tracks or traffic patterns.

c. Special Studies. Special studies to redevelop a noncompatible area, to address noise compatibility problems that were beyond the scope of the basic Part 150 study, or to prepare noise

elements of local building codes. Such projects are eligible provided that they result in definitive, implementable products. These studies may be accomplished by consultants or by a local agency sponsor by force account. In the latter case, however, sponsors should clearly understand that routine administrative costs are not allowable under the AIP. (Refer to the discussion of force account work in Chapter 4.)

d. Transaction Assistance. Transaction assistance generally involves an agreement by the airport sponsor to pay certain costs associated with the sale of residential property when a homeowner wants to move away from a noise impacted area, where local officials have determined that the residential use will be continued. Allowable costs should generally be limited to the real estate sales commission.

e. Other. Consult with APP-510 for other noise compatibility proposals.

716. ALLOWABLE PROJECT COSTS. Costs for work which is necessary to accomplish a noise compatibility project are allowable in the same way that such costs are allowable for airport development projects as discussed in Chapter 5. For example, if construction of a noise barrier would require the demolition of a structure on the airport, those costs are allowable. If the structure were occupied by a tenant under a lease, the cost of relocating the tenant and the cost associated with terminating the lease, as provided for under the Uniform Act, are also allowable. The Federal share of such costs associated with a noise compatibility project is the same as the Federal share of the cost for noise compatibility projects at that airport, rather than the share applicable to airport development projects.

717.-719. RESERVED.

SECTION 3. USE OF PROCEEDS FROM SALE OF NOISE COMPATIBILITY LAND

720. DISPOSAL REQUIREMENT. When land acquired for noise compatibility purposes is no longer needed for that purpose, the sponsor is required to dispose of the property. The proceeds, at the discretion of the FAA, may be returned to the Airport and Airway Trust Fund or reinvested in approved noise compatibility projects.

721. USE OF FUNDS. Proceeds from the sale of noise compatibility land which are returned to the Trust Fund may be reissued in grants for airport development and airport planning and are not subject to obligation limitations. Contact APP-520 for information on procedures for depositing such proceeds and their subsequent reuse.

722. EVALUATING REINVESTMENT PROPOSALS. In many cases it will be desirable to reinvest proceeds from the sale of noise land at the original airport or vicinity. The following factors should be considered, however, prior to approving local reinvestment of such funds.

a. The sponsor's financial management procedures should be able to account for the proceeds and track their subsequent use in new projects.

b. Projects at that airport should be of sufficient priority to justify their reuse locally, and the FAA should concur in the sponsor's project selection for use of the proceeds.

723. REQUIREMENTS FOR REINVESTMENT. Where the proceeds are to be reinvested in another noise compatibility project, the following provisions apply.

a. The project must be an approved measure in the sponsor's NCP.

b. The project must be at the same airport or vicinity as that where the land sale proceeds were realized.

c. The project must be sponsored by the same sponsor who disposed of the land and realized the proceeds of sale.

d. When Federal assistance is used to assist in acquiring land, and the land is subsequently sold and the proceeds are used to acquire additional land, that acquisition is also subject to the provisions of the Uniform Act, even if no "new" Federal funds are provided for the later acquisition. (Regional/General Counsel Opinion 3/1/88.) By extension it follows that other conditions and assurances are renewed when such proceeds are used in follow-on projects. The sponsor should be advised of this continuing obligation early in original grant application process, if possible, but no later than prior to use of the proceeds in a new project. The following actions are suggested to facilitate tracking these sponsor obligations:

(1) Issue a grant with "new" (current year) Federal grant funds when a project is to be undertaken with proceeds from the sale of noise land to ensure sponsor/FAA cognizance of the renewed grant obligations; and/or

(2) Use the proceeds for noise insulation or another capital improvement project which uses up the funds and eliminates the need to track the proceeds and sponsor obligations through subsequent iterations; and/or

(3) Amend the original grant to make use of the proceeds if the grant amendment requirements and limitations can be met.

724. CONVERSION TO AIRPORT DEVELOPMENT LAND. Land acquired for noise compatibility purposes may subsequently be redesignated as airport development land without any further certifications or adjustment in the Federal share of the cost of acquisition, provided that the development is justified by a new or revised airport master plan and/or it is depicted as future development land on the FAA-approved airport layout plan.

725.-799. RESERVED.

CHAPTER 8. PROCUREMENT AND CONTRACT REQUIREMENTS
SECTION 1. PROCUREMENT

800. GENERAL.

a. Procurement Regulations. 49 CFR 18.36 provides the policy, procedures, and regulations to be used for procurements made under Federal grant programs. Typical procurements under the airport aid program involve construction, equipment purchases, and professional services such as engineering/architectural, planning, legal, land appraisal, and audit services.

b. State and Local Procurement Standards. Sponsors will use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in 49 CFR 18.36.

c. Contractual Responsibility. The standards in this section do not relieve the sponsor of the contractual responsibilities arising under its contracts. The sponsor is the responsible authority, without recourse to the FAA regarding the settlement and satisfaction of all contractual and administrative issues arising from procurements entered into, in support of an airport aid grant. This includes, but is not limited to, disputes, claims, protests of award, source evaluation, or other matters of a contractual nature.

d. Code of Conduct. The sponsor is required to maintain a code or standards of conduct which governs the performance of its officers, employees, or agents in contracting with and expending airport

aid funds. The sponsor's officers, employees, or agents are not allowed to solicit or accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible by the state or local law, rules, or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the sponsor's officers, employees, or agents, or by the contractors or their agents.

e. Disadvantaged Business Enterprises (DBE) Set Aside. While it is FAA policy to ensure open competition to afford a fair opportunity for any qualified contractor to bid on proposed contracts under the airport improvement program, a set-aside procedure for DBE's may be used if permitted by state or local law. In this instance, only DBE's are considered qualified bidders (see 49 CFR Part 23).

f. Foreign Trade Restriction. The Airport and Airway Safety and Capacity Expansion Act of 1987 contained a foreign trade restriction provision (Section 533). This provision prohibits grant funds to be used toward the procurement of goods or services of companies or individuals who are nationals of a country which is placed on the restricted list by the U.S. Trade Representative. This list is revised periodically and published in the Federal Register. APP-510 will inform the regional offices when a country is added to or deleted from this list. See paragraph 1535.

801. COMPETITION IN PROCUREMENTS. Paragraph (c) of Section 18.36 states "all procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Section 18.36."

a. Practices which may limit competition include:

(1) Unreasonable requirements on firms in order for them to qualify to do business;

(2) Noncompetitive practices between firms;

(3) Organizational conflicts of interest;

(4) Unnecessary experience and bonding requirements;

(5) Unnecessary product or "brand name" specifications; and

(6) Preference to in-state or local bidders.

b. The sponsor's requests for bids or proposals shall clearly and accurately describe the technical requirements for the material, product or service to be procured. All requirements which must be fulfilled and the factors which will be used to evaluate the bids or offers must be clearly stated.

c. If a sponsor knowingly writes a proprietary specification (and, therefore, knows the specification is actually sole source), it must state up front to the FAA that the specification is, in fact, proprietary and then justify this procurement method.

802. PROCUREMENT METHODS. Four basic methods of procurement are permitted:

a. Competitive Sealed Bids. Competitive sealed bids are usually used in the airport grant program for procurements involving construction or equipment purchases. In this procurement method, sealed bids are publicly solicited and a firm fixed price contract (either lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is lowest in price.

(1) The invitation for sealed bids must be publicly advertised although it may also be sent directly to known suppliers;

(2) When specified in the bidding document, factors such as discounts, transportation costs, and life-cycle costs may be considered in determining which bid is lowest; (See paragraph 808 for additional guidance on use of life-cycle costs.)

(3) If the sponsor determines that the bidder submitting the lowest bid is not responsive and/or responsible, the FAA must review and concur in this determination. The FAA's action on the sponsor's determination should be documented in the project file (see paragraph 810 for Award to Other than the Apparent Low Bidder).

b. Competitive Proposal. Normally, professional services are procured through this method.

(1) Competitive proposals are solicited from an adequate number of qualified sources. Additionally, the Request for Proposals (RFP) is also publicized. This method is mainly used in the Airport Grant Program to procure professional services (e.g., engineering, legal, and audit). The competitive proposal method recognizes that the expertise of firms (or individuals) providing professional services varies. Although several firms may be qualified to provide the professional service required, some of them may have more expertise in the particular area than others. For this reason, procurement under the competitive negotiation method considers the technical aspects as well as the price of the proposal. However, price is not to be used as a factor in the procurement of engineering and architectural services (see subparagraph (2) below). The request for proposals must identify all the factors that will be used to evaluate the proposals and their relative importance. AC 150/5100-14 provides more detailed information.

(2) Sponsors may use competitive proposals for procuring engineering and architectural services whereby only the offeror's technical qualifications are evaluated. Planning studies, as well as contracts and subcontracts for program management, feasibility studies, design, surveying, mapping, and related services are considered to be within the context of engineering and architectural services. In these cases, the request for proposals requires that firms only submit their technical qualifications for performing the project. A price quotation may accompany the initial submittal by the contractor provided it is in a separate sealed envelope which may not be opened until actual negotiations by the sponsor have begun with that contractor. The best qualified firm is then selected subject to the negotiation of a fair and reasonable price. If the sponsor and the best qualified firm cannot agree upon a price, negotiations with that firm are terminated. Price negotiations are then entered into with the second best qualified firm. The same procedure should be followed with the third firm, fourth firm and so on until a fair and reasonable price can be negotiated with a qualified firm. Once negotiations have been terminated with a firm and begun with another, they cannot be reopened with the former firm. AC 150/5100-14 provides further details on the procurement of engineering and architectural services through competitive negotiation.

c. Noncompetitive Proposal.

(1) Although it is preferred that all procurements be made on a competitive basis, noncompetitive proposal is permitted under the following circumstances:

(a) The item is available only from a single source;

(b) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation;

(c) After solicitation of a number of sources, competition is determined inadequate; or

(d) The FAA authorizes noncompetitive proposal.

(2) Under (1)(d) above, regions may authorize noncompetitive proposal procurements for professional services if the cost of the contract is not expected to exceed $10,000 and the professional services are incidental to the grant project. Typical contracts of this nature include:

(a) Services to review legal sufficiency of the grant;

(b) Appraisal; and

(c) Grant audit services performed as part of a project.

(3) Care must be exercised in allowing noncompetitive contracts for legal services involving land acquisition (especially those which may include condemnation proceedings) since these types of contracts may exceed the $10,000 limitation and, in some cases, could be considered a prime rather than an incidental part of the project. Similarly, engineering/architectural services are normally a prime part of the project (rather than incidental); and, therefore, noncompetitive proposal would not be appropriate.

(4) If a sponsor knowingly writes a specification that is noncompetitive (and, therefore, knows the specification is actually sole source), it must state up front to the FAA that the specification is, in fact, sole source and then justify this procurement method.

(5) Utility companies owning service lines or other facilities generally do not permit work on their property or equipment by anyone other than their own employees. Accordingly, contracts for installation, extension, removal, and relocation of public utility facilities may be entered into through noncompetitive proposal. However, the contract, cost estimates, and plans for such work must be reviewed and approved by the FAA. (See paragraph 594.)

d. Small Purchase Procedures. The procurement process under small purchase procedure is less formal than either of the previously discussed methods and may only be used for procurements of less than $25,000. The number of sources solicited would be determined by the number of qualified sources available, the time frame involved, and the dollar value. Oral solicitation is acceptable for very small purchases, but should be adequately documented. Except for very small purchases, a letter request should be issued as a minimum, and a written proposal should be solicited.

803. PROCUREMENT OF EQUIPMENT.

a. The FAA is authorized to establish or approve standards for airport development which is to be accomplished with AIP funds. FAA has done this in many cases, such as with snow removal equipment , airport lighting, etc. In some cases, it has also published approved lists of items meeting the FAA plans and specifications. However, the fact that a piece of equipment is not on an approved list, in and of itself, does not make the equipment ineligible or not acceptable. For such equipment, the sponsor will have to establish to FAA's satisfaction that the equipment does, in fact, meet the standards and specifications. If the equipment does not meet the standards and specifications, it is not eligible for Federal aid. If the sponsor elects to install equipment, which has not been approved by the FAA and cannot meet standards at the time of commissioning, then the sponsor must take whatever steps necessary to replace the equipment or the appropriate costs will be disallowed.

b. When FAA has published specifications for specific items, the specifications should be used with no modification, unless the sponsor can justify to FAA such modification. One of the major problems in this area occurs with airfield lighting. A sponsor's solicitation should contain only the FAA

specification and related designation (e.g., AC 150/5345-46 L-850-A, runway centerline fixture) and not include limiting factors which have the effect of restricting competition. While we can appreciate the sponsor's desire to have uniformity of equipment, both for maintenance as well as aesthetic purposes, Federal regulations regarding the bidding process require open and free competition. This is not to imply that there may not be reasons for specifying a certain type of equipment. If such is the case, the sponsor must submit a justification for such restriction to the FAA for consideration. An example of such justification might be that the equipment quantities to be acquired represent an insignificant number (for example, less than 5%) of the overall equipment in use and, therefore, do not justify the creation of duplicate inventory. In some cases a sponsor may request equipment to "match existing" equipment. If the effect of such request is, de facto, the establishment of sole source procurement because of the lack of interchangability of parts or equipment, then this type of wording should not be allowed in the solicitation. Open and free competition is to be the norm and not the exception.

c. To allow sponsors flexibility in purchasing equipment, they should be permitted to select and specify in their bidding documents equipment features and characteristics when FAA standard specifications for such equipment allow a choice. However, in selecting those features and characteristics, the sponsor must assure the FAA that at least two manufacturers will be able to meet the selected specification with their standard production model. In cases where sponsor selections are likely to result in only one qualified manufacturer, field personnel must secure from the sponsor sufficient justification for those selected features that create the exclusivity since the resulting procurement would be noncompetitive.

d. Field offices may approve procurement of equipment containing additional features not contained in the FAA specification. Unless the additional features represent state-of-the-art development, Federal financial participation shall be limited to those features incorporated in the specification and some basis must be established for determining the cost of nonessential items. State-of-the-art features may be eligible for participation if approved by the Office of Airport Safety and Standards and justified by the airport sponsor. In no case can these added features (other than state-of-the-art ones) result in the elimination of competitive bidding by specifying a design limited exclusively to one manufacturer.

e. Field offices should strongly encourage sponsors to send specifications for equipment to industry for review and comment prior to issuance of the IFB if the FAA specs have not been used or if the sponsor deviated from them significantly. This will allow defects in the specifications to be identified in advance, especially if the specification is proprietary. Using this information and input from industry and correcting or modifying the specification, the sponsor can certify to the FAA that at least two manufacturers will be able to meet the proposed specification in the IFB.

f. If a sponsor knowingly writes a proprietary specification (and, therefore, knows the specification is actually sole source), it must state up front to the FAA that the specification is, in fact, proprietary and then justify this procurement method.

804. PRICE OR COST ANALYSIS.

a. Required Analysis. Sponsors are required to perform some form of a cost or price analysis for every procurement, including change orders. This analysis is needed for FAA review to determine the reasonableness of cost (see paragraph 1022) and to identify possible bid improprieties (see paragraph 1023).

(1) Cost Analysis. Cost analysis is the review and evaluation of a contractor's proposal and the judgmental factors which the contractor applied. The analysis is used by the sponsor to form an opinion as to whether proposed costs are consistent with what contract performance should cost, assuming reasonable economy and efficiency. For the procurement of professional services, the sponsor should make a technical evaluation of the effort needed to perform the tasks and should include this in the

analysis. Cost analysis results in a determination of the necessity for costs and the reasonableness of the amounts.

(2) Price Analysis. Price analysis is accomplished by comparing the submitted proposals or quotations with prior quotations and prices and using parameters such as average unit cost, published price lists, etc. A price analysis should be used in most cases, other than for professional, consulting, and architectural/engineering (A/E) services contracts. Apparent gross inconsistencies should be subjected to more intensive inquiry.

(3) Significant Differences. Significant differences in the proposed contract prices and the sponsor's cost estimate should be explained as part of the analysis.

b. FAA Review. The sponsor's analysis shall be submitted to the FAA for review. Particular attention should be paid to the sponsor's analysis where the procurement involves a negotiated price.

805. PROFESSIONAL SERVICE RETAINERS.

a. Many sponsors hire firms (or individuals) to provide professional services necessary for their normal operations (not necessarily related to a grant) on a retainer basis. The sponsor may use these same firms to provide professional services necessary for a grant project without further procurement action provided that:

(1) The retainer contract was awarded as a result of a procurement method which would have basically met the requirements of competitive procurement, as specified in paragraph 802;

(2) The parties competing for the work were advised that anticipated grant funded projects would be performed under the retainer contract. This would include advising them of a specific scope of services for those specific projects;

(3) The price for the work to be performed under the grant contract will be fair and reasonable and supported by a cost or price analysis. Comparisons should be made to similar type projects.

b. The sponsor shall be required to initiate a competitive procurement action in accordance with paragraph 802 if the firm on retainer does not meet all of the above conditions.

806. PROCUREMENT OF ENGINEERING, ARCHITECTURAL AND OTHER PROFESSIONAL SERVICES FOR SEVERAL PROJECTS. As stated in paragraph 802, parties competing for engineering, architectural, and other professional services may be selected on their qualifications subject to the negotiation of a fair and reasonable price. Consequently, it would be permissible for the sponsor to procure engineering and architectural services for several grant projects through one procurement action if the following criteria are met:

a. The parties competing for the work must be advised that the work is expected to be accomplished during the course of several grant projects;

b. The parties shall also be advised that possibly all or some of the services may not be required and that the sponsor reserves the right to initiate additional procurement actions for any of the services included in the procurement;

c. The scope of the proposed development work and required services must be defined along with the expected schedule of project initiation. The scope of the development must be specific rather than general;

d. Unless otherwise approved in writing by the appropriate field office, the services included in the procurement shall be limited to those projects which can reasonably be expected to be initiated within 3 years of the final procurement selection. This time limitation has been established so that competition is not unduly restricted. In some circumstances (e.g., a project that will take many years to complete a safe, usable unit), it may be permissible to approve an engineering contract that involves services beyond the 3-year limitation. However, APP-500 shall be consulted prior to approval for periods exceeding 3 years.

e. The negotiation of the fee will usually be limited to the services expected to be performed under the initial grant.

f. The contract should be limited to the services covered by the negotiated fee. Subsequent services should be covered by amendment to the initial contract or subsequent contracts. However, at the time the initial contract and cost analysis are submitted for review, the sponsor should notify the FAA of the subsequent services that were included in the procurement.

g. The negotiation of the fee for subsequent services (i.e., services included in the procurement action but not included in the initial contract) shall occur at the time those services are needed. The sponsor must perform a cost analysis for each of these negotiations. If a price cannot be agreed upon between the sponsor and the selected firm, then negotiations are terminated with that firm. However, rather than entering into negotiations with the firm ranked in the next place at the time the initial contract was negotiated, a new procurement action is initiated.

807. SOLICITATIONS CONTAINING BOTH ELIGIBLE AND INELIGIBLE WORK. Unless there is an overriding reason to combine eligible and ineligible work in a single solicitation, sponsors should be discouraged from doing so. Sponsors who issue such combined IFBs should be made aware of the policy in this paragraph before the IFB is issued. In solicitations or IFBs where both eligible and ineligible work are combined (e.g. paving an apron and building a hangar), the extent of Federal participation with grant funds will be determined as follows:

a. When a combined solicitation is logical, eligible work should be clearly identifiable as separate line items, or, as in the case of pavement overlay for instance, easily prorated.

b. On any solicitation to be funded in part with Federal grant money, the sponsor must award to the lowest responsive and responsible bidder on the entire contract, except as in c. below.

c. If the low overall bid contains a cost for the eligible work higher than that of other bids, Federal participation shall be based on the lowest amount bid for the eligible work by a responsive and responsible bidder, unless it is obvious from a comparison with other bids or the engineering estimate that the bid containing the lowest price for the eligible work is unbalanced and the price of the eligible item is unreasonably low. In this case, the field office should limit Federal participation to the next lowest reasonable bid on the eligible work.

808. LIFE-CYCLE COSTS IN COMPETITIVE SEALED BIDS.

a. The concept of life-cycle costs recognizes that although an item may have the lowest initial cost, it may actually be more expensive than some other item when other costs such as those associated with operation and maintenance are considered. Under the life-cycle cost concept, any costs expected to be incurred for the item over its useful life (i.e., acquisition, installation, operation, and maintenance) are considered. Cost data must be verifiable independently of a manufacturer's or contractor's claim. Since life-cycle costing can result in overall economy to the sponsor when properly carried out, field offices should encourage life-cycle costing when the conditions below can be met:

(1) The IFB states that life-cycle costs will be used in determining the low bidder;

(2) The factors to be considered are specified and the costs associated with the factors must be quantifiable:

(a) "Specified" means that the IFB specifically states the factors that will be included in the life-cycle cost computation. Examples of factors that could be specified include annual fuel consumption for a motor vehicle, electrical consumption, and lamp replacement for lighting equipment, recurring inspection, and maintenance. All factors that have quantifiable costs should be specified in the bidding document.

(b) "Quantifiable" means that there is sufficient information available so that costs associated with these factors can be readily calculated. Calculation of energy consumption costs is fairly straightforward and should be based upon some objective standard or independent testing. For lighting equipment, electricity consumption and lamp replacement should be based upon the rating assigned by the manufacturers of the components rather than the equipment manufacturer. Calculation of costs associated with recurring inspections and maintenance is much more difficult. Generally, costs associated with maintenance should only be included in the life-cycle costs computation if a fair and accurate calculation of such costs can be made. Maintenance costs, if used, should be independently validated.

(3) The IFB must explain how the costs for each of the specified factors will be calculated.

(a) The costs associated with a factor can vary substantially depending upon how they are calculated. For this reason, any assumptions that will be used in making the calculations should be included in the bidding document. For example, if the fuel consumption of a vehicle will be considered, the invitation should state the expected number of annual miles and the price of fuel that will be included in the calculation.

(b) The period of time over which the life-cycle costs will be calculated should also be stated.

b. The item that meets the bidding specification and has the lowest life-cycle cost is the successful bid. Sponsors desiring to use the life-cycle cost concept should be advised to consult with FAA offices before issuing an IFB to assure that their procurement procedure will meet grant requirements.

809. BONDING. Bonding requirements for construction are found in 49 CFR 18.36(h) and allows sponsors to follow their own requirements relating to bid guarantees, performance bonds, and payment bonds for construction unless the contract or subcontract exceeds $100,000. For those contracts and subcontracts exceeding $100,000, the FAA may accept the bonding policy and requirements of the sponsor provided the appropriate FAA regional offices have made a determination that the Government's interest is adequately protected. The determination should be adequately documented in the project file. If such a determination has not been made, the minimum requirements shall be as follows:

a. Bid Guarantee of Five Percent. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of its bid, execute such contractual documents as may be required within the time specified.

b. Performance Bond of 100 Percent. A performance bond on the part of each contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such a contract.

c. Payment Bond of 100 Percent. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

810. AWARD TO OTHER THAN APPARENT LOW BIDDER. When the competitive sealed bid procurement method is used, the contract must be awarded to the lowest responsible and responsive bidder. If the sponsor determines that the apparent low bidder (i.e., the bidder submitting the lowest dollar amount) is not responsible and/or nonresponsive, the FAA must review and concur in this determination. Although the sponsor can award to other than the apparent low bidder, Federal funds cannot be used in the contract unless FAA concurs in the determination.

a. Not Responsible. The bidder must be a responsible party, i.e., it must have the required financial, managerial, technical, and ethical capacity to perform the contract. 49 CFR 18.36(b)(8) reads that "grantees...will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources." However, sponsors possess a wide amount of discretion in determining who is responsible. To concur in a sponsor's determination of not responsible, FAA personnel should review the determination to assure that there is a factual basis for the determination.

b. Nonresponsive. When a bid does not conform to all the material terms and conditions of the invitation for bids which are deemed substantial, it is nonresponsive. It is the sponsor's responsibility to determine if the exceptions taken by a bidder to the solicitation are substantial or not and the extent of deviation it is willing to accept. The project engineer should normally not use his/her judgment in place of the sponsor's unless there are compelling reasons to do so or unless the sponsor is not in compliance with local procurement regulations. Determinations of nonresponsiveness cannot be based upon deviations that are not substantial.

811. ALTERNATE BIDS. To allow more flexibility in the procurement process, the sponsor may request alternate bids in a procurement action. The amount of Federal participation will depend on the manner in which the alternate bids are addressed in the IFB.

a. If the sponsor specifies in the IFB that it reserves the right to award to the low bidder in either alternate category and establishes a reasonable objective standard that will be applied in making the award, then the contract may be awarded to the low bidder in either alternate with full Federal participation. (As an example, the IFB might state that: "The sponsor reserves the right to award to the low bidder in either Alternate "A" or Alternate "B," provided that the amount of the low bid in the alternate selected does not exceed the amount of the low bid in the other alternate by more than 10%.")

b. If, in the IFB, the sponsor has not reserved the right to accept the low bid in either alternate or has not established an objective standard to be applied in making the award, the sponsor may award to the low bidder in the higher alternate bid if local policy allows; but the Federal participation will be based on the lowest responsive alternate bid.

c. If a sponsor plans to use alternate bids, the field office should call to its attention the differences in a. and b., above, so that the sponsor is aware prior to the issuance of the IFB of the Federal participation.

812. BID PROTESTS.

a. Role of the Sponsor. Under 49 CFR 18.36, the sponsor will develop protest procedures to handle and resolve disputes relating to their procurements and shall, in all instances, disclose information regarding the protest to FAA. The sponsor is responsible for all procurement actions to be in accordance with its established procedures including the handling of complaints and protests.

b. Role of the FAA. The FAA's role is limited to a review of the protest for violations of Federal law or regulations and violations of the sponsor's protest procedures. A protester must exhaust all administrative remedies with the sponsor before pursuing a protest with the FAA. FAA field offices should ensure that the sponsor sends a copy of all protests to them and should redirect to the sponsor any protests received from bidders. To avoid delaying the procurement process, field offices should immediately review any protest they receive and send a copy to APP-510 to assure consistency in the resolution of bid protests.

c. Defects in Bid Solicitation.

(1) Since defects in the bid solicitation can be identified prior to bid opening, the protest must be filed with the sponsor before bid opening since the deficiency can often be corrected by amending the solicitation. Unless a sponsor has a valid and justifiable reason to shorten the time, bid opening dates should be at least 30 and preferably 45 days after the public issuance of the bid solicitation (including the issuance of plan sets). This would normally allow a prospective bidder to review the plans and specifications and to confer with the sponsor in order to clarify any area which may be vague or misunderstood. Such informal discussion may be in order because of unintentional inclusions of proprietary items by the sponsor or its engineer in the plans and specifications. This would allow the sponsor to issue addenda, as necessary. Such action may well prevent the filing of a formal protest.

(2) If a prospective bidder formally protests the procurement on the grounds that the bid solicitation is defective, it is the responsibility of the bidder to notify the sponsor in writing and before the bids are open, what aspects of the solicitation the bidder is protesting. The sponsor shall send a copy of the protest (or have the bidder do so) to the ADO or regional office. The bid opening is to be delayed, if necessary, until the protest is satisfied (including rejection) or to allow time for the sponsor to issue an addendum, as appropriate. Since the most common occurrence in the grant program under this category is the use of proprietary specifications, the project manager should review the solicitation, especially if the sponsor has certified that the plans and specifications meet FAA standards, are nonproprietary, and are in accord with 49 CFR 18.36, Procurement. The fact that the FAA may have approved the specification or accepted the sponsor's certification is obviated by the receipt of the bid protest. Because of the complexity of some of the equipment being used by sponsors today, it may be necessary to seek the advice of headquarters personnel, such as found in AAS-100 and 200, on technical or design issues. If the sponsor insists on opening the bids when there is a protest outstanding, it should be advised that FAA will not approve awarding of a contract and that Federal funds may not be used.

(3) If a protest of this nature is made after bid opening (and assuming that the bid package has been available for more than 10 working days) and if local procurement regulations allow, the sponsor may have the option of rejecting the protest without action, even if, in fact, the protest is valid. This is based on a General Accounting Office (GAO) principle that a bidder normally has sufficient time to protest a defective solicitation prior to bid opening and not after.

(4) There are times when it is not practical to have a 30 or 45 day solicitation period for all bids. Sometimes a sponsor may be able to justify a shorter period of time. If the sponsor allows 10 days or less for bid proposals, then the prospective bidders should be allowed to protest a defective specification up to contract award.

d. Improper Evaluation of Bids. While protests pertaining to defective solicitations are made prior to bid opening, there is another type of protest which occurs after bid opening (the time period for

filing is dependent upon the provisions of local law). This involves an improper bid evaluation. A bidder may be improperly disqualified or the sponsor may fail to disqualify the apparent low bidder for a defective bid. Here, the most common question deals with bid responsiveness and the responsibility of the bidder. If the apparent low bidder is determined by the sponsor to be nonresponsive or not responsible, the FAA must concur in the determination (see paragraph 810). If an unsuccessful bidder protests that the low bidder was either nonresponsive or not responsible, the FAA must ask the sponsor to provide information on how it made its determination. In view of the protester's complaint, FAA must also concur in this determination.

813. SPECIFIC SITUATIONS. Because procurement regulations vary from locale to locale, it can be extremely difficult for the FAA project manager to keep track of all the procurements in progress. Below are outlined several scenarios which are not uncommon and which provide appropriate guidance:

a. A Contractor Uses Quote from Supplier "A" and is Apparent Low Bidder. After Awarded the Contract, the Contractor Obtains the Equipment From Supplier "B."

Unless there is a contract between the contractor and the supplier, the contractor may switch suppliers as long as there is no change in the bid. This is also true in the case of using subcontractors. While this is probably not a good business practice, FAA has no control over this situation. The assumption here is that there has been no influence, either overtly or covertly, from the sponsor.

However, when a protest is filed and to ensure the sponsor has not been exerting pressure, the project manager may request that the sponsor supply the names of the suppliers/manufacturers from the prospective bidders. The FAA field office should review such submittals to confirm that all the contractors are not using the same suppliers and distributors.

b. A Contractor Uses Quote from Supplier "A" and is Apparent Low Bidder. After Awarded the Contract, the Sponsor's Engineer Refuses to Accept the Material from Supplier "A" and Makes Arrangements for the Contractor to Obtain the Material from Supplier "B" at Same Price.

This type of action is not acceptable and would be in violation of the regulation, 49 CFR Part 18. The sponsor is interfering with the open and competitive market. As long as the material from supplier "A" meets the standards and specifications, the sponsor may not specify with whom the contractor shall do business.

c. A Contractor Uses Quote from Supplier "A" and is Apparent Low Bidder. After Awarded the Contract, the Contractor is Told by the Sponsor to Furnish Material from Another Supplier at a Higher Cost. The Sponsor will Pay the Additional from its own Funds.

There has been a long standing policy by OMB that this is not acceptable. This is an obvious attempt to circumvent the procurement regulations and is not to be allowed.

There have been several situations where, because of the particular nature of the equipment, FAA has allowed a sponsor to opt to bid a specific item, rather than use the FAA generic specification. The sponsor could then use its own funds above the limit set by the FAA, e.g., the procurement of friction measuring devices. However, the sponsor must specifically state in the bid solicitation that it is seeking to procure a specific type of equipment (e.g., self-contained vehicle vs. a towed vehicle). This procedure is limited in use and has been coordinated with OMB.

d. Sponsor Plans to Procure Equipment Under the Grant Program. Can He or Should He Break up the Order to Accommodate Several Suppliers/Manufacturers or Should He Purchase as a Complete Usable Unit, e.g. Lighting Fixtures and Cans.

This practice is left up to the discretion of the sponsor. By breaking up the order, the sponsor may be able to more easily meet its overall Disadvantaged Business Enterprise goals. However, there may be inherent problems using this techniques, such as delivery dates, compatibility of equipment, having to deal with more than one vendor or contractor, etc. Normally, the project manager should not get involved in this type of decision unless there are extenuating circumstances.

814.-819. RESERVED.

SECTION 2. CONTRACTS

820. GENERAL.

a. The type of contract (e.g., fixed-price contract and cost-reimbursement contract) shall be appropriate for the particular procurement and for promoting the best interest of the project involved. Contracts should be sound and complete agreements and include, to the extent appropriate, provisions defining:

(1) The scope and extent of the contract work;

(2) The time for completion of the contract work, including, where appropriate, dates for completion of significant tasks;

(3) The contract price and method of payment;

(4) Identification of key personnel and facilities necessary to accomplish the work within the required time;

(5) The extent of consulting contracts and subcontracting to be performed;

(6) Changes by the sponsor within the general scope of the contract in the services or work to be performed;

(7) Contractor conformance with the terms, provisions, conditions, and specifications.

b. The FAA should carry out preaward contract review in accordance with paragraph 1200.

821. NONALLOWABLE PRACTICES.

a. Cost-Plus-a-Percentage-of-Cost. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

b. Contract Bonus. Contracts sometimes provide for payment of a bonus to the contractor for completing construction ahead of schedule. Under airport grants, this is not an item to be considered in determining reasonableness of construction costs. Therefore, such bonus payments are ineligible.

c. Escalator Clauses. Unless otherwise authorized by APP-1, the FAA will not participate in any costs in a contract that are subject to an escalator clause. Such authorization will only be provided in instances where short-term price fluctuations in the market indicate that expected costs cannot be accurately estimated.

822. REQUIRED FEDERAL PROVISIONS. In addition to the general requirements above, Federal laws and regulations prescribe that certain provisions be included in federally-funded contracts, as specified below. For purposes of this paragraph, the term "contract" includes subcontracts.

a. All Contracts.

(1) Civil Rights - Title VI. Appropriate clauses from the Standard DOT Title VI Assurance must be included in all contracts. The clauses can be found in Appendix 2 in AC 150/5100-15.

(2) Disadvantaged Business Enterprises. Appropriate clauses from 49 CFR Part 23 must be included in all contracts. The clauses can be found in AC 150/5100-15, Appendix 10.

(3) State Energy Conservation Plans. The contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

(4) Record Availability. Contracts must include a provision to the effect that the sponsor, the FAA, the Comptroller General of the United States or any or their duly authorized representatives shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contact for the purpose of making audit, examination, excerpts, and transcriptions. Sponsors shall require contractors to maintain all required records for 3 years after the sponsor makes the final payment and all other pending matters are closed. See Appendix 3.

(5) Remedies. Contracts must allow for administrative, contractual, and legal remedies in instances in which contractors violate or breach contract terms and providing such appropriate sanctions and penalties. See Appendix 3.

(6) Foreign Trade Restriction. All solicitations, contracts, and subcontracts resulting from projects funded under the AIP must contain the foreign trade restriction required by 49 CFR Part 30, Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors. See Appendix 3.

b. All Contracts Over $10,000. These contracts must contain provisions or conditions for termination for cause or convenience by the sponsor including the procedure and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated because of circumstances beyond the control of the contractor. See Appendix 3.

c. All Contracts Over $25,000 and All Contracts for Auditing. All solicitations, contracts, and subcontracts which exceed $25,000 shall contain the required provision from 49 CFR Part 29, Government Debarment and Suspension (Nonprocurement). Further, this provision will be inserted in all solicitations and contracts when the solicitation or contract is for auditing services regardless of amount. See Appendix 3.

d. All Contracts Over $100,000. Contracts in amounts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). See Appendix 3.

e. All Construction Contracts. All contracts involving labor must contain provisions necessary to ensure that in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to qualified individuals who are Vietnam era veterans or disabled veterans, who have been honorably discharged from such service. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates. The clause can be found in AC 150/5100-6 and in Appendix 3 of this order..

f. All Construction Contracts Over $2,000.

(1) Davis-Bacon Requirements. These contracts need to include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a-7) and the Department of Labor implementing regulations (29 CFR Part 5). Under this Act, contractors are required to include the contract provisions in Section 5.5(a) of 29 CFR Part 5, and to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in the wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The sponsor shall place a copy of the current prevailing wage determination in each solicitation, and the award of a contract shall be conditioned upon the acceptance of the wage determination. The sponsor shall report all suspected or reported violations to the FAA. (AC 150/5100-6 contains detailed guidance in this area along with the appropriate clauses.)

(2) Contract Work Hours and Safety Standards Act Requirements. The contracts must include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by the Department of Labor regulations (29 CFR Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate not less than one times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies, materials, or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. Appropriate clauses can be found in AC 150/5100-6, Appendix 2.

(3) Copeland "Anti-Kickback" Act Requirements. All construction contracts over 2,000 must include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This act provides that each contractor shall be prohibited from inducing, by any means, persons employed in the construction, completion, or repair of public work to give up any part of their compensation. The sponsor must report all suspected or reported violations to the FAA. The appropriate provision can be found in AC 150/5100-6, Appendix 2.

g. All Construction Contracts Over $10,000. Executive Order 11246, Equal Employment Opportunity, applies to all construction contracts over $10,000. Appropriate clauses from 41 CFR Part 60 must be included in all applicable contracts. The clauses can be found in AC 150/5100-15, appendices 4-8.

823.-829. RESERVED.

SECTION 3. SUSPENSION AND DEBARMENT

830. GENERAL. 49 CFR Part 29, Governmentwide Debarment and Suspension (Nonprocurement), was revised and became effective October 1, 1988. The suspension or debarment of an individual or a company by one Federal agency now has governmentwide effect. All departments within the Executive Branch of the Federal government have adopted GSA and OMB's common rule on debarment and suspension.

831. APPLICABILITY OF 49 CFR PART 29. The procedures are applicable to contractors and subcontractors at any level, including suppliers, fee appraisers, inspectors, real estate agents and brokers, consultants, architects, engineers, attorneys, and to affiliates of these contractors when the procurement

contract for goods or services equals or exceeds the Federal procurement small purchase threshold, currently set at $25,000 (this limit does not apply to auditors under A-128).

832. NONPROCUREMENT LIST. The "Nonprocurement List" is that portion of the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs" compiled, maintained, and distributed by GSA which contains the names and other information about persons or companies who have been debarred, suspended, or voluntarily excluded from participation in Federal programs. An individual or company named in the "Nonprocurement List" may not be awarded a grant, a contract, or a subcontract except as provided in 49 CFR Part 29. Sponsors are encouraged to subscribe to the List through the Government Printing Office (GPO).

833. DESIGNATIONS.

a. Debarring/Suspending Official. The Administrator has designated the Airports Division Managers as debarring and suspending officials. This designation may not be delegated.

b. Coordinator. APP-510 will serve as the national coordination point and should be notified when a party has been suspended, debarred, or voluntarily excluded from contracts under AIP. They, in turn, will notify all regions and the Assistant Secretary for Administration (OST) for the purposes of inclusion on the Nonprocurement List.

834. PROCEDURES FOR SUSPENSION AND DEBARMENT. Regions should consult and carefully follow the procedures for suspension and debarment contained in 49 CFR Part 29.

835. STANDARD CLAUSE FOR CERTIFICATION. See paragraph 822c and Appendix 3 for standard language that is to be inserted in all solicitations, contracts, and subcontracts when the contract is for goods and services and will exceed $25,000 and for all solicitations and contracts for audit services, regardless of cost.

836-899. RESERVED.

CHAPTER 9. PROJECT FORMULATION AND PREAPPLICATION
SECTION 1. PROJECT FORMULATION

900. GENERAL. The project formulation stage begins with the sponsor's recognition of a need and continues through the development of a concept, preparation of technical and cost information, accomplishment of engineering and design, and the review by the FAA of the initial plans and specifications. It may also include the required environmental actions, coordination processes, and an overall project development schedule. Consideration may be given to multi-year funding at this stage (see paragraph 1102). The project preapplication may be prepared and submitted to the FAA during the formulation process at a point where the project concept is basically complete. The formulation stage is completed when the project application is prepared and submitted to the FAA.

901. PROJECT FILE. A project file is a collection of files and records on a particular project which is kept by the regional Airports Division or by the various field offices, as decided by the regional Airports Division. The regional Airports Division is left to its own discretion as to what type of information and format is to be included in the project file except for that information required by paragraph 930 of this Order or other Orders. However, there should be enough information to be able to track a project from preapplication to closeout and audit or, for disapproved preapplications, a narrative statement supporting the determination.

902. PROJECT ENGINEERING.

a. The sponsor is responsible for all project engineering including the preparation of plans and specifications, construction supervision, and the conducting of inspections and testing for project control. Proposals for engineering services will normally be submitted to the FAA for approval unless a certification has been submitted in accordance with Chapter 15. Engineering services may be provided through contract with a qualified engineer or engineering firm or by the sponsor's own personnel (force account).

b. Separate funding for the preparation of plans and specifications may be provided in accordance with paragraphs 300 and 310d.

903. CONTRACT ENGINEERING SERVICES. If the sponsor engages the services of a qualified engineer or an engineering firm, the engineering agreement becomes the basis for FAA determination of adequate engineering arrangements and reasonable costs. Chapter 8 of this Order and AC 150/5100-14 provides guidance for selection, review, and approval for engineering services. If deemed necessary by the FAA, a draft of the agreement will be submitted to ensure that:

a. The scope of the engineering is described completely;

b. The fees or reimbursements are reasonable and eligible as shown by a cost/price analysis;

c. The type of contract is appropriate; and

d. The engineering/consultant firm and the proposed contract terms are acceptable.

904. FORCE ACCOUNT ENGINEERING SERVICES. Proposals to accomplish airport engineering with the sponsor's own personnel or by its agent must be approved by the FAA. Proposals shall be submitted in writing and subjected to a review similar to that for engineering contracts. The guidelines and procedures for force account engineering services are the same as for force account construction work discussed in Chapter 12. It should be noted that most of the factors considered in the selection of a consultant would be applicable to approval of services to be done by force account. The sponsor's proposal to use force account rather than contract engineering services must be fully documented and should contain as a minimum:

a. Justification for doing the work by force account rather than by contract;

b. Estimate of costs with details as to hourly rates, nonsalary expenses, indirect costs, and comparison of costs between the sponsor's force account engineering services and contract engineering services;

c. Names and engineering qualifications of personnel to be doing the work and references to capability for design, supervision, inspections, testing, etc., as applicable;

d. Details of experience with airport engineering of like or similar nature;

e. Information on workload as it affects capacity to do the work, date by which the work will be complete, or dates within which it will take place;

f. Field offices should exercise diligence in reviewing force account engineering costs.

905. COORDINATION AND APPROVAL OF PLANS AND SPECIFICATIONS. All AIP construction projects shall be coordinated with other FAA elements and Government agencies as appropriate. Examples of such coordination include obtaining recommendations from the appropriate

operating divisions with respect to designation of instrument runways, adequacy of approach lights and airport marking, and the location of underground facilities in the work area. In addition projects must comply with local ordinances and other applicable requirements. Generally, FAA Airports personnel shall be responsible for coordination within FAA with the sponsor responsible for all other coordination.

a. Approval of Plans and Specifications. FAA must approve the plans and specifications to assure that they are in accordance with applicable standards unless the sponsor submits certification consistent with the requirements in Chapter 15. If a sponsor submits plans and specifications which contain proprietary items, the FAA field office must review the sponsor's justification to determine whether the sponsor will be allowed to proceed with a sole source procurement.

b. Sponsor's Engineer's Report. A sponsor's engineer's report setting forth the general analysis and explanation of reasons for design choices by the engineer must be submitted with the plans and specifications unless deemed inappropriate by the field office. The report should provide the following information:

(1) Design Computations. The report should include a summary of computations as a basis for design of major development items. FAA Form 5100-1 is used for the design pavement thickness, a summary of computations and a description of method to support requirements for drainage structures. The engineer need not submit earth work cross sections or mathematical details for designs unless requested, but should have them available for review by FAA representatives.

(2) Reasons for Selections and Modifications. The engineer's choices and recommended modifications will, in most cases, be influenced by service records for comparable construction and by cost comparisons. The project record should include concise statements and cost comparisons that justify selections and modifications.

(3) Other Elements. The engineer should outline work to be done without AIP assistance, how it is to be accomplished, and its relationship to AIP work. Also, work to be done by utility companies should be described together with sources of estimates for such work.

(4) Support Data. The engineer's report should also include supporting data and itemized estimates with source information. Any unique circumstances that may influence adjustments of prevailing estimates should be explained.

c. Signatures. The FAA representative authorized to approve plans and specifications should sign copies of specifications and prints of drawings, not originals.

d. Conditional Approval. The FAA may conditionally approve plans and specifications to permit initial advertising of bids even though the plans and specifications may require minor revisions. The field office should use the conditional approval procedure only when the revisions are noncontroversial and do not significantly affect the design and engineer's estimate. The office should, with the signature giving conditional approval, make a note of reference to the letter that discusses the conditions. Removal of the conditions after acceptable revisions will require a further notation to cancel the condition. (See Appendix 9, paragraph 14 for special condition on preliminary plans and specifications.)

906. INTERGOVERNMENTAL PROJECT REVIEW.

a. General. Executive Order 12372, Intergovernmental Review of Federal Programs, dated July 14, 1982, establishes procedures which replace the procedure in OMB Circular A-95. Executive Order 12372 allows States, in consultation with local elected officials, to establish their own process for reviewing and commenting on Federal programs and activities. It requires Federal agencies to accept

State and local views or explain why not. Regulations implementing E.O. 12372 are contained in 49 CFR 17, Intergovernmental Review of Department of Transportation (DOT) Programs and Activities. Additional guidance is contained in Order 1200.21, Intergovernmental Review of FAA Programs and Activities. Information on a State's intergovernmental project review process or single points of contact may be obtained from APP-510.

b. FAA Responsibilities.

(1) Sponsor Notification. FAA is responsible for informing potential sponsors of AIP grants about the required intergovernmental project review process which normally requires 60 days for State and local agencies. Sponsors should be notified of the name and address for single points of contact or other entities to be contacted prior to preapplication submittal. The preapplication conference, planning projects, or other channels of information may be used to inform potential sponsors.

(2) Accommodating Comments. When the intergovernmental project review process results in comments, FAA should pursue one of the following options:

(a) Accommodate the comments, i.e., do as the State or local agency recommends;

(b) Reach a mutually agreeable solution with the State or local agency. This solution can differ from the original State or local agency position on the matter; or

(c) Not accommodate the comments. While the FAA is not required to accommodate comments or discuss another solution, a written explanation of decisions should be provided the single point of contact. The explanation should be provided at least 15 days before beginning work on the project. If no single point of contact exists, a written explanation should be sent to the other affected entities which commented. An informational copy of explanations shall be sent to the DOT Assistant Secretary for Administration.

c. Early Project Review. Sponsors regularly use a State's review and comment process for environmental assessment, capital improvement programs, or other planning studies since intergovernmental project review should be accomplished as early as feasible. This early project review described in Order 1200.21 is incorporated into Order 5050.4, and other applicable guidance. In these cases, the intergovernmental project review does not need to be repeated at the implementation stage unless the scope of work has changed or significant time has lapsed.

d. Exempt Projects. Projects which do not significantly affect State or local governments beyond airport boundaries are exempt from intergovernmental project review unless coordination is requested under a State's review and comment process.

e. Process Changes. Formal changes in a State's intergovernmental project review process shall be forwarded to the DOT Assistant Secretary for Administration and implemented within 90 days of receipt from the State.

907. PUBLIC HEARING.

a. General. Any airport development project involving airport location, a new runway, or a major extension of an existing runway cannot be approved unless the opportunity for a public hearing has been offered. In addition, there may be other occasions when either the opportunity for a public hearing or a public hearing itself may be appropriate. Section 1506.6 of the CEQ Regulations established procedures for public involvement in projects affecting the environment. Appendix 6 of Order 1050.1 and

Order 5050.4 prescribe environmental requirements in detail. These orders are controlling and should be consulted regarding public hearing requirements.

b. Form of Notice. The notice of opportunity for public hearing must include a concise statement of the proposed development and be published in a newspaper of general circulation in the communities in or near the proposed development. The notice must specify that the hearing is for the purpose of considering the economic, environmental, and social effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community. The notice must provide a minimum of 30 days from the date of the first required publication in accordance with local law, for submission of requests for a hearing to persons having an interest in the project, and state the manner in which a hearing may be requested. The notice must further state that a copy of the sponsor's environmental documentation will be available at the sponsor's place of business for examination by the public for a minimum of 30 days, from the date of the notice. This 30-day minimum should commence from the date the notice is first required to be published, if published more than once.

c. Request for Hearing. A public hearing must be provided if requested. If a public hearing is to be held pursuant to receipt of a request, the sponsor must publish a notice of that fact in the same newspaper in which the notice of opportunity for a hearing was published. The last notice required by local law must be published at least 15 days before the date set for the hearing. The notice must specify the date, time, place of the hearing, a concise description of the proposed project, and indicate where and at what times more detailed information may be obtained.

d. Report of Hearing. If a public hearing is held, the sponsor must provide the FAA with a summary of the issues raised, the alternatives considered, the conclusion reached, and the reasons for that conclusion. The sponsor must also keep a recording or other records covering the hearing and, on FAA request, prepare a verbatim transcript of such hearing.

e. Lack of Interest. A hearing need not be held if, after adequate public notice of opportunity for a public hearing, no person having a interest in the economic, social, and environmental effects of the project requests a hearing. In such a case, the sponsor must submit written statement that adequate notice of opportunity for a hearing had been provided, and that no request for a public hearing was received. Upon request, proof of publication of the notice must be submitted.

908. ALP REVIEW. During the project formulation, the sponsor and the FAA project manager should review the ALP to ensure that it is current and contains the proposed project, if appropriate.

909. RESERVED.

SECTION 2. PREAPPLICATION

910. GENERAL.

a. Purpose. The preapplication serves as a preliminary notice of the sponsor's interest and intent without actually obligating the sponsor to perform any work or expend any funds. Acceptance of the preapplication by the FAA does not imply that the proposed project will be programmed under the AIP. A preapplication for Federal assistance must be submitted to the appropriate regional Airports Division on Standard Form (SF) 424 (Appendix 6) unless the project is one listed below, in which case an application may be submitted:

(1) A planning project;

(2) Procurement of equipment;

(3) Procurement of engineering or professional services;

(4) Any project involving $100,000 or less of Federal funds;

(5) A project involving the use of entitlement funds only;

(6) The sponsor elects to submit an application along with the required documentation in lieu of a preapplication.

b. Supporting Documentation. The supporting documentation required to be submitted with a preapplication shall be included in the AIP application whenever a preapplication is not required
.

c. Form Preparation. The original and two copies of the preapplication completed in accordance with the instructions on the reverse side of the form with supporting documentation and certification, will be submitted to the FAA. The appropriate FAA field office is responsible for furnishing guidance about the proper completion of the form and the supplemental supporting documentation and certification.

911. SUPPORTING DOCUMENTS. The completed SF 424 must be accompanied by the supporting documents listed below, as appropriate. The FAA may request additional supplemental information in certain cases to support other Federal and local requirements.

a. Program Narrative and Cost Estimates. A narrative statement is to include justification for work to be accomplished, and a summary of the work items. Additionally, estimates showing the basis for the project budget must be furnished in sufficient detail to determine whether the project costs appear to be reasonable.

b. Sketch. A sketch, at least 8”x11”, that depicts and identifies the scope of the proposed project, distinguishes existing airport development from the development proposed in the project and shows the boundaries of presently owned land and the boundaries and proposed property rights of each parcel of land or easement to be acquired.

c. Identification of Environmental Requirements. All AIP projects must be either categorically excluded or accompanied by an environmental assessment prepared by the sponsor in accordance with the current version of Order 5050.4.

d. Public Hearing. If a public hearing has been held, a summary of the issues raised, alternatives considered, and conclusions reached must be provided. In cases where a hearing has not been held, a certification that no request for public hearing had been received must be provided. (See paragraph 907d. and e.)

e. Consultation with Airport Users. A written statement that airport users, as appropriate, have been consulted in connection with the proposed project.

912. TIMING OF SUBMISSION. Sponsors' preapplications may be accepted by the FAA at any time. However, special directions are published each year in the Federal Register and sponsors should be advised, as appropriate, to comply with the schedule in the Register. Regions may request sponsors' input at an earlier date to meet Regional needs.

913. ACKNOWLEDGEMENT OF PREAPPLICATIONS. FAA will acknowledge receipt of all requests and make preliminary comments about the eligibility of both the project and the sponsor and whether or not the preapplication can be further considered. This acknowledgement will be forwarded to the sponsor within 45 days of the receipt of the preapplication. When the review cannot be made within

45 days, the sponsor will be informed by letter as to the anticipated date when the review will be completed. FAA Form 5100-31, Notice of Preapplication Review Action (Appendix 11), may be used for this acknowledgement.

914. NOTIFICATION TO APP. A FAA Form 5100-107 (Appendix 10) showing preapplication data should be sent to APP-520 concurrent with the sponsor acknowledgement required above. Items ineligible for funding should not be included on the FAA Form 5100-107.

915.-919. RESERVED.

SECTION 3. PREAPPLICATION REVIEW AND EVALUATION

920. GENERAL. The initial review is an important phase in the development of an AIP project. This is the time to assign priorities, identify deficiencies in preapplications, and assign an approval, disapproval, or deferral of the project. Proposals that would require special adaptation of standards and problem areas that may later require the use of special conditions in the grant agreement should be carefully evaluated. To avoid delays in a project, efforts should be made to resolve programming and technical problems prior to recommending a project for approval.

921. PROJECT EVALUATION REPORT AND DEVELOPMENT ANALYSIS. A Project Evaluation Report and Development Analysis (PERADA) (FAA Form 5100-109; RIS: 5100-8) must be prepared for each project. This report must support the recommendations made with respect to the programming action. The report shall be prepared on the form found in Appendix 12 and shall concentrate on a concise discussion of problem areas. The data to be included in each section is described below:

a. Heading. Self-explanatory.

b. Part I - Checklist. The Checklist must be completed for each item. Items on the list which do not obviously pertain to the project should be marked "N/A." All other items should be checked in either the "Meets Requirements" column or the "See Part III" column. A "Meets Requirements" reply is the field office's affirmation that the item has been scrutinized and determined to require no further action. Each item checked under the "See Part III" column will require a short narrative which will be included in that part and documented in the project file, as appropriate. The following is a brief discussion of each item:

(1) Sponsor Funds. Problems foreseen in sponsor's ability to provide funds in time for project approval must be explained. (See paragraph 1010.)

(2) Site Approval and Airspace Clearance. Give status of site approval, if necessary. For airspace clearance, state whether requested and status of formal or informal clearance.

(3) NPIAS. The airport location must be included in the NPIAS and the project be consistent with the NPIAS role. (See paragraph 300a(5).)

(4) ALP. Explanation is necessary only if the project is not on the approved ALP or if there is no approved ALP. (See paragraphs 300c, 4--, 500, and 1529.)

(5) Status of Prior Grant. If there are any projects over three years old that are not closed out, give reasons for delays and schedules established for closing the projects out.

(6) Compliance. If the airport is currently in noncompliance, a compliance investigation is underway, or if a compliance review will not be made prior to the grant, an explanation should be made.

(7) Status of Runway Protection Zones and Approaches. Reserved.

(8) Project Useful Life. If the airport is to be closed or replaced before the expiration of the normal useful life of the project, an explanation should be made in Part III.

(9) Landing Aid Requirements. If the requirements for landing aids are not included in the project, an explanation should be made. Any problems caused by the sponsor's lack of action in providing these facilities will be described with possible solutions.

(10) Modification of Standards. Any modification of design standards must be identified and justified. (See paragraph 35.)

(11) Donations. All donations will be identified with information on the manner in which the value has been established for programming purposes. (See paragraph 350.)

(12) Force Account. Identify work proposed for force account. Comments will also include the method used in establishing costs for program purposes. (See paragraphs 1230 and 1233.)

(13) Unreasonable Cost. Identify any unusual or unreasonable cost shown on preapplication. (See paragraphs 310 and 1022.)

(14) Runway Surface Treatment. For all airports having turbojet operations, provide a detailed statement on the circumstances involved if surface treatment requirements have not been met. (See paragraph 520a.)

(15) Intergovernmental Review. Explain any problem areas associated with coordination through the appropriate state single point of contact. (See paragraph 906.)

(16) Compatible Land Use. Identify any problems relating to use of property adjoining the airport and sponsor actions to assure compatible land use. (See paragraph 1005.)

(17) Public Hearing. Have the public hearing requirements been satisfied? (See paragraph 907.)

(18) Environmental Requirements. Identify any unresolved problems encountered. Identify any conditions to FAA approval. (See paragraph 302.)

(19) Information on Specific Opposition. Identify any opposition or controversy received regarding the project and the disposition of such opposition. Controversial aspects other than specific opposition should be discussed in sufficient detail to insure that programming actions are appropriate.

(20) Flood Insurance. Has the sponsor adequately satisfied this condition? (See AC 150/5100-16.)

(21) Consultation With Airport Users. Identify any unresolved issues raised by airport users. (See paragraph 1508.)

(22) Uniform Acquisition and Relocation Requirements. Identify any controversial aspects or failure to meet the requirements of the Uniform Act or Order 5100.37.

(23) Terminal Development/Bond Retirement. Have the requirements for this type of project been satisfied? (See paragraphs 551 and 552.)

(24) Noise Compatibility Projects. If the project is not included in an approved Part 150 program, please explain.

(25) Congressional Interest. Indicate if the location has been included in a congressional appropriation as a "Place-Named Location." Also, include any significant congressional interest.

(26) Civil Rights Requirements. If the regional Civil Rights Officer has not reviewed the project or if there are any controversial aspects of the project, explain in the Narrative.

(27) Washington Approval Required. See paragraph 31 for a list of projects requiring Washington approval. In addition, modifications of the standards in Order 5300.1 or deviation from national policy should be described.

c. Part II, Description/Analysis/Justification of Work Items. Include a clear description of each work item and a brief statement supporting the need for each item recommended for programming. This analysis shall be limited to a discussion of the aeronautical need with respect to necessity and timing and shall not include detailed design information unless pertinent to the programming decision. The priority assigned to each development item shall be included. For development not recommended for programming, the report should contain a brief resume of the analysis leading to that conclusion.

d. Part III, Explanation. Explain any item from the Part I, Checklist, marked "See Part III."

922.-929. RESERVED.

SECTION 4. PROJECT APPROVAL/DISAPPROVAL AND ALLOCATION

930. REGIONAL APPROVAL. This paragraph outlines procedures for processing AIP projects requiring regional approval.

a. Preapplications filed with the FAA will be evaluated as they are received. For projects approved by the Region, each project file will contain the following documents:

(1) A copy of FAA Form 5100-107, Airport Improvement Program (Appendix 10);

(2) Proposed Award of Grant, FAA Form 5100-12 (Appendix 4);

(3) Project Evaluation Report and Development Analysis (PERADA) (Appendix 12);

(4) Preapplication for Federal Assistance, SF 424 (Appendix 6);

(5) Current FAA-Airport Master Record, FAA Form 5010-1;

(6) Program narrative consisting of a list of the work items, justification for the work, and a detailed cost estimate of the project.

(7) Color coded sketch, preferably 8"x11", drawn to scale and identifying items of work requested and recommended. Number items requested by the sponsor to match items in the preapplication. Larger sketches should be fastened to the folder in a manner that will permit readily unfolding;

(8) For cases requiring an environmental impact statement, the public record of decision required by CEQ Regulations, section 1505.2 (43 F.R. 55978) shall also be included.

b. A decision on a preapplication must be made at the field level in a timely manner. Should a sponsor procrastinate or fail to respond to FAA field office requests for information necessary for project consideration, the preapplication shall be processed and a recommendation made on the basis of the data on hand.

931. NOTICE OF DISAPPROVAL OR DEFERRAL. When a project is not approved or is deferred for inclusion in the program, the sponsor shall be advised of such action and the reasons therefore. FAA Form 5100-31, Notice of Preapplication Review Action (Appendix 11), will be used for this purpose. A copy of such notice shall be sent to the appropriate state agency. If disapproval is based on the violation by the sponsor of an assurance or other requirement of the grant program and the preapplication/application is to be funded from passenger or cargo entitlement (or special Alaska entitlement) funds, the procedures in Order 5190.6 should be followed.

932. WASHINGTON APPROVAL. For those projects requiring Washington approval, the FAA Form 5100-107, once received by APP-520, shall be transmitted back to the regional office signed by the appropriate headquarters official.

933. WASHINGTON COORDINATION.

a. APP will review regional recommendations and approvals to assure consistency in application of policies, programming criteria, and guidelines and national uniformity in the application of priorities. The programs will be monitored to determine at what priority level discretionary funds are being used. The regional Airports Division will be alerted of any obvious problems or deficiencies disclosed in this review and may be requested to provide additional information.

b. Upon receipt of notification of the approval of an AIP allocation, including increases in excess of $100,000 to an existing allocation by the regional Airports Division Manager or the Administrator, as appropriate, APP-520 will handcarry the Notification of Allocation for Airport Development (FAA Form 5100-12) to the OST Office of Congressional Affairs.

c. OST will notify the congressional delegation and advise APP-520 that the project is cleared for release to the sponsor.

d. APP-520 will advise the region by phone or through the computerized 5100-107 of the OST congressional release and authorize notification to the sponsor of the AIP allocation.

e. APP-520 will prepare the data for a quarterly press release of AIP allocations.

f. Regions will notify sponsors in accordance with the provisions of paragraphs 931 and 934 of the action taken on their proposal.

934. NOTICE OF ALLOCATION. When a project has been approved, the appropriate regional Airports Division shall send a notice of allocation to the sponsor following receipt of advice from APP-520 of congressional release. Copies of such notice will be sent to the appropriate state aviation agency or

as agreed upon between the sponsor and its state aviation agency. Each notice should include the following:

a. The amount of the allocation.

b. A list of programmed items. Any deletions or reductions from the sponsor's proposal must be explained.

c. A statement that the allocation may be used only for the programmed items.

d. A statement explaining that the allocation is the first step leading to the issuance of a grant offer, and is made within the amounts authorized under the terms of the AAIA and that the issuance of a grant offer is contingent upon all applicable Federal requirements being met, including:

(1) Approval of the project as finally formulated; and

(2) The limits of obligational authority for the current fiscal year.

e. A statement that the allocation is in consideration of the sponsor's representations shown on the preapplication and that the FAA field office will discuss these matters with the sponsor.

f. A statement that failure to establish an acceptable schedule or delay in conforming to the schedule will result in prompt withdrawal of the allocation.

g. Copies of the AC's on labor, civil rights, and relocation assistance, as applicable and if available.

935. SCHEDULE FOR SPONSOR DEVELOPMENT OF THE PROJECT.

a. Establishment of Schedule.

(1) Immediately after an allocation is made, a meeting should, if deemed necessary, be arranged with the sponsor to establish a schedule for the development of the project. This meeting should include all representatives of the sponsor who will participate in the project, including, when appropriate, any state officials, sponsor's engineers and the sponsor's attorney. The FAA field office representative will provide the sponsor with an estimated date for tendering the grant offer. This date will take into consideration any limitation on obligational authority for the current fiscal year. The schedule will prescribe a definite date for each step of the project and will identify the individual responsible for each step. Emphasis will be placed on the fact that the allocation will be withdrawn unless the sponsor develops the project in accordance with the schedule.

(2) Where appropriate, firm dates for each of the following steps of the project development should be set:

(a) Completion of sponsor's funding;
(b) Submission of ALP;
(c) Designation of sponsor's engineer;
(d) Submission of preliminary plans;
(e) Request for state air and water quality standards compliance assurances;
(f) Submission of final plans and specifications and engineer's report;
(g) Completion of necessary land acquisition and relocation of displaced persons;
(h) Adoption of zoning ordinance or other compatible land use measure;

(i) Submission of title evidence;
(j) Coordination with planning agencies;
(k) Receipt of current wage rates;
(l) Advertising for bids;
(m) Award of contract;
(n) Preconstruction conference;
(o) Submission of Application for Federal Assistance (SF-424 and FAA Form 5100-100);
(p) Issuance of grant offer;
(q) Acceptance of grant offer.

(3) The schedule will be realistic from the standpoints of both the sponsor and the FAA in anticipating problems and causes of delays. Scheduling of actions required to develop the application, including engineering work and acquisition of property interests, should point toward the issuance of a grant offer with a minimum of special conditions.

(4) Regardless of project priority, every effort should be made to schedule projects for grant agreement during the same fiscal year for which an allocation is made unless advance programming action is involved. The agreed scheduled dates shall be considered deadline dates, and the sponsor will be advised that failure to meet them may result in action to withdraw the allocation. This procedure is considered necessary to insure that sponsors will complete all work preparatory to entering into a grant agreement and will be prepared to proceed immediately with project development as funds are made available.

b. Monitoring Conformance to the Schedule. The field office should monitor programs in accordance with the agreed upon schedule and take appropriate action when delays occur. Sponsors should be queried on projects which have not begun within 6 months of grant award to determine reasons for the delay and appropriate follow-up action. Appropriate documentation will be placed in the project file to support later decisions to extend or withdraw the allocation.

936.-939. RESERVED.

SECTION 5. MODIFICATION OF APPROVED PROGRAMS

940. PROGRAM CHANGES. Program changes are modifications to projects for which notices of allocation have been issued, deleting, revising, or adding development items or adjusting allocations. Such program changes should not be used indiscriminately or as a substitute for careful planning and estimating for initial programming.

941. PROCEDURES.

a. Timing. A sponsor should request a program change as soon as its needs become evident.

b. Sponsor Submission.

(1) Deletions or Reductions of Items. Deletion or reduction of development items from approved projects may affect the operational capability of the airport involved or prevent the construction of a safe, useful, and usable unit. Consequently, such action should be undertaken with caution, so as to assure that the operating capability of the airport or unit of development is not adversely affected.

(2) Increase in Funds or Additions to Programmed Development Items. The sponsor must submit a request with the same type of information and documentation required for a

preapplication. This must, in all cases, include a revised project estimate and assurance of availability of sponsor funds if a request for the modification of funds has been submitted after application. Changes in development items will normally require revised project sketches.

(3) Decrease in Allocation. Where the change involves only a reduction in the amount of the allocation, a revised project estimate is a sufficient basis for decreasing the allocation.

c. Regional Determination. Regions will approve or deny requests for program changes except for those projects approved at the headquarters level.

d. Headquarters Determination. For any changes that cannot be approved in the region, the region will submit the request to APP-520. Documentation may be requested by APP to allow evaluation of the request.

942. ANNOUNCEMENT OF CHANGES TO APPROVED PROGRAM. Changes made under regional Airports Division authority should be announced to congressional offices in accordance with procedures in Order 5100.20.

943.-949. RESERVED.

SECTION 6. LETTERS OF INTENT

950. GENERAL. The FAA is authorized to issue an LOI for certain airport development projects when current obligating authority is not timely or adequate to meet a sponsor's desired timing for a project. Under this provision, a sponsor may notify the FAA of an intention to carry out a project without Federal funds and request that the FAA issue an LOI. The FAA evaluates the proposal and, if approved, issues a letter stating that reimbursement will be made according to a given schedule, as funds become available. A sponsor who has received an LOI, therefore, may proceed with a project without waiting for an AIP grant, is assured that all allowable costs related to the approved project remain eligible for reimbursement, and may receive more favorable financing to pay related costs on the basis of announced Federal support for the project.

951. ELIGIBILITY.

a. Sponsor. Public agencies or private airport owners are eligible to receive a letter of intent.

b. Airport. LOI's may be issued to cover work only at primary and reliever airports.

c. Project. The project must significantly enhance system-wide airport capacity to be eligible for a letter of intent.

952. PROCEDURES. A principal goal in establishing the LOI procedures is that projects to be funded in this way be treated as much like conventionally funded grant projects as possible. In order to ensure that all statutory and administrative requirements attendant to the normal grant process are satisfied, the FAA will evaluate sponsor preapplications and review proposed projects as is done for a normally funded AIP project. At the point where an FAA office would issue a notice of allocation to the sponsor, that office will instead issue an LOI. Grant applications and offers will follow as set forth in the LOI payment schedule, subject to the availability of funds. Actions should occur as outlined below:

a. Early FAA/Sponsor Coordination. Consideration of an LOI for a large capacity-enhancing project may be initiated by an airport sponsor or the FAA. In either case, the sponsor should be briefed early on the general features of the LOI provision and on actions that the sponsor should take to obtain an LOI. The FAA field office which is the sponsor's normal point of contact will be the primary contact for

the sponsor regarding an LOI. (It may also be desirable, from the sponsor's point of view as well as the FAA's, to hold a joint FAA headquarters, region, and sponsor meeting so that all parties understand the purpose and scope of the project, FAA authority and policy, and sponsor financial needs, schedules, and responsibilities. This type of meeting may be more valuable in light of the added requirement that proposed LOI's for more than $10 million be approved by committees in both the Senate and House.) As a minimum, the FAA and the sponsor should meet to discuss the following points:

(1) A sponsor must notify the FAA of an intention to proceed with a project and request an LOI. If the sponsor receives an LOI and then proceeds without the aid of Federal funds, the sponsor may later be reimbursed under the terms of the LOI. The notice should be submitted during project formulation or the preapplication phase and should specify the forecast dates for implementing the project or stages of the project and the estimated costs associated with each stage of construction. There should also be a requested schedule of FAA payments under the LOI. The notice may accompany the preapplication or be submitted separately.

(2) An LOI may only be issued for capacity-enhancing projects at primary and reliever airports.

(3) A project under an LOI must satisfy all statutory and administrative programming requirements for an AIP project. Sponsors should be advised to proceed as though they had received Federal funds and should fulfill all environmental, civil rights, bidding, procurement, and contracting requirements associated with an AIP grant, even though no Federal funds are received at the time the project is initiated.

(4) All documents normally submitted with a preapplication should be submitted in support of a request for an LOI. In addition, the ALP, property map and sponsor assurances normally submitted with a grant application must accompany the preapplication.

(5) An LOI may not include funds from current obligating authority, although a current year grant may be issued in partial support of the project. A statement in the LOI should note the current year grant but not incorporate it in the schedule of prospective payments. Both entitlement and discretionary funds may be used in an LOI.

(6) To be considered for an LOI at a primary airport, the project cost should exceed 3 years of forecast sponsor entitlement funds. If not, the project should be funded under a Multi-Year Grant agreement in accordance with existing guidance.

(7) The sponsor should agree to commit all entitlements over the life of the LOI to the project. An exception may be made if entitlement funds are already committed for other urgent needs. In such a case, the payment schedule in the LOI will have no funds under the apportionment heading.

(8) An LOI may be issued with payments scheduled beyond the statutory expiration of the AIP (currently September 30, 1992), as authorized by the FY 1989 Department of Transportation and Related Agencies Appropriations Act (Public Law 100-457).

(9) The total of discretionary funds in all LOI's subject to future obligation will be limited to approximately 50 percent of the forecast discretionary funds available for that purpose.

(10) An LOI will not be issued until construction is imminent. Consequently, all environmental actions should be complete before issuance of a letter of intent.

(11) An LOI may be amended in future years to adjust the total maximum Federal obligation, the schedule of payments, or both. Considerations which may lead to an amendment include,

but are not limited to, a change in project cost, change in project timing or scope, or changes in future obligating authority.

(12) Alternative funding levels and schedules should be discussed. The FAA position is to use the LOI provision to encourage the maximum number of capacity-enhancing projects. Consequently, the FAA should ensure that sponsor resources are used to the maximum extent reasonable, and that Federal financial support should be the minimum amount needed to allow the project to proceed.

(13) Costs incurred prior to the issuance of an LOI will not be reimbursed, except project formulation costs.

b. FAA Actions to Approve the Project. Regions should notify APP-500 promptly when a sponsor expresses interest in obtaining a letter of intent. Preliminary information should include a general description of the proposal, the estimated cost, the forecast schedules for construction and reimbursement, and an indication of whether the project is a good candidate for an LOI.

All normal preapplication review and evaluation actions should be completed as if the project were being programmed for a grant. It is important that the sponsor understand that work that is normally ineligible under an AIP grant is not eligible under an LOI. Similarly, the sponsor should be briefed on the importance of complying with all Federal procedures on bidding, civil rights, contract award, and approval of plans and specifications so as to be reimbursed under the LOI.

The magnitude of projects which are candidates for LOI's is such that they will be expected to exceed regional project approval authority. Therefore, when regional review is complete and a project is recommended for approval under an LOI, the programming package will be submitted to APP-500 for final approval and processing. The programming package should include a proposed LOI (Appendix 24) specifying any current year grants issued or to be issued, the recommended maximum Federal obligation and the proposed payment schedule. Any special language to be added to address specific project issues should be coordinated in advance with APP-500 who will provide regions with any revisions to this format as they occur.

APP-500 will complete the headquarters actions necessary to complete the approval process and initiate the OST/congressional notification process. The congressional notification will state the FAA's intention to grant funds, not to exceed the estimated total Federal share of allowable project costs, and any amounts that are approved for allocation in the current year. It is not expected that additional congressional notification will be needed for subsequent grants in accordance with the approved payment schedule.

c. Issuance of LOI. FAA will issue the LOI to the sponsor when the congressional notification is complete. The same official who normally signs a grant offer for the FAA will be the official who signs the LOI. (If a current year grant is approved at the same time, a notice of allocation may be transmitted simultaneously.) The LOI should include the following:

(1) LOI number and airport name (the number should be based on the region's three letter code, the fiscal year of issuance, and a sequential number, e.g., AGL-88-02, the second LOI issued by AGL in FY 1988);

(2) A brief project description;

(3) The maximum amount of Federal funds which will be made available for the project;

(4) A schedule of reimbursements;

(5) A statement that the sponsor must comply with all statutory and administrative requirements applicable to an AIP grant;

(6) A statement that the LOI is not considered to be an obligation of the United States, shall not be deemed an administrative commitment for funding, but it shall be regarded as an intention to obligate from future budget authority as such funds become available; and

(7) A statement that the LOI may be amended to adjust the maximum Federal obligation, the payment schedule, or both.

953. POST-LETTER OF INTENT ACTIONS. All actions that would normally follow the notification of allocation, except those related to grant offer, acceptance and payments, must be completed as if a grant had been issued. If a sponsor proceeds without satisfying all of the "statutory and administrative requirements" associated with an actual grant, the commitment to reimburse the sponsor under the LOI may be voided. Therefore, the FAA must be involved in review and acceptance of plans and specifications, prebid conferences, concurrence in the contract award, preconstruction conference, notice to proceed, and so on, through final inspection. Sponsors should fully understand that failure to comply with all Federal requirements could jeopardize later reimbursements.

954. GRANT APPLICATION AND OFFER. When the authority to obligate funds for a project under an LOI is received, the sponsor should be notified to submit a grant application and all additional documentation needed at that time. The project description on the SF 424 need only state that the application is for a scheduled payment for a project under a specified letter of intent. Additional documentation may include periodic construction progress reports, inspection reports, or other evidence of satisfactory progress. The grant application may be for costs already incurred or for prospective costs. If the application includes costs not yet incurred, however, the FAA should ensure that the costs are imminent, rather than anticipated at some unspecified date in the future.

955. ADMINISTRATION OF LETTERS OF INTENT. There will be an ongoing need to maintain up-to-date records of outstanding commitments under the LOI provisions. In addition, projects constructed under LOI's are likely to be more complex and to require longer completion times that those initiated with current year allocations and grants. Consequently, there may be a need to periodically review the amount of funds originally agreed to in an LOI and to adjust the estimate for funding needed in the out years. In any case, APP-500 should be advised of any changes in the amounts or status of such future funding agreements.

956. AMENDMENTS TO LETTERS OF INTENT. Because these projects will be administered in the same way as conventionally funded projects, there will be on-going FAA field involvement as each project phase is completed, as subsequent phases come to bid, and as successive grants are issued under the LOI. In cases where significant changes in project scope or costs are apparent, the FAA office administering the project is authorized to issue an amended LOI, after coordinating with APP-500, revising the project description, increasing or decreasing the Government's maximum obligation, or revising the payment schedule. See Appendix 24 for a sample LOI amendment.

Substantial revision or abandonment of a project initiated under an LOI is not anticipated. In such an event, however, consult APP-500 to determine the appropriate course of action. Although the limitation on grant amendments (currently 15 percent) does not apply to LOI's, caution should be exercised in considering project changes which would substantially increase the cost. Should a sponsor seek to obtain another LOI for projects not covered by the first LOI, the sponsor's new proposal should be evaluated in the same way as the original.

957. ADDITIONAL LETTER OF INTENT. Should a sponsor seek to obtain another LOI for projects not covered by the first LOI, the sponsor's new proposal should be evaluated in the same way as the original.

958.-999. RESERVED.

FLOW CHART OF LOI ACTIONS

PROJECT FORMULATION - FAA/sponsor meetings
- project scoping, timing, cost
- availability of funds
- LOI conditions, likelihood
- region notify APP-500

SPONSOR PREAPPLICATION ACTIONS - all normal preapplication documents
- encourage application documents (ALP, property map, assurances required)
- notice (letter) requesting LOI

FAA REVIEW AND APPROVAL - acknowledge receipt, completeness
- evaluation and coordination
- programming package to APP-500
- approval of amount and schedule
- OST/Congressional notification

ISSUE LOI - project description
- amounts and schedule
- disclaimers and conditions

PROJECT ACCOMPLISHMENT - FAA/sponsor interaction as usual
- sponsor proceeds with project
- inspections and reports as usual

GRANT APPLICATION/OFFER/EXECUTION - as scheduled or when notified
- project described as payment no.
- under LOI no. , dated / /
- grant offer, execution & payment
- amend/terminate LOI

CHAPTER 10. PROJECT APPLICATION
SECTION 1. PREPARATION

1000. GENERAL.

a. The project application serves as final notice of a sponsor's intent to carry out the approved program and is usually preceded by the preapplication process found in Chapter 9. For the following projects in which a preapplication is not required, the application serves as the initial notice:

(1) A planning project;

(2) Procurement of equipment;

(3) Procurement of engineering or professional services;

(4) Any project involving $100,000 or less of Federal funds;

(5) A project involving the use of entitlement funds;

(6) The sponsor elects to submit an application along with the required documentation in lieu of a preapplication.

b. The project application must be submitted on SF 424 and on FAA Form 5100-100 (Appendix 7). No omission of any matter or change in language contained in the application shall be made without approval of the FAA headquarters, except as noted in paragraph 1001.

1001. TIMING OF SUBMISSION.

a. Application Subject to Preapplication Requirement. For those applications preceded by a preapplication, the application must be submitted on or before the mutually established deadline date in accordance with the project schedule. If the sponsor is not pursuing the project with reasonable diligence and it is apparent the deadline date will not be met, the allocation may be withdrawn at any time after the sponsor has been notified of such proposed action.

b. Application Not Subject to Preapplication Requirement. Sponsors' applications may be accepted by the FAA at any time. Special directions are published each year in the Federal Register and sponsors should be advised, as appropriate, to comply with the schedule in the Register. Regional Airports Divisions may request sponsors' input at an earlier date to meet regional needs.

1002. PROJECT DESCRIPTION. A description of the proposed items of airport development must be included in block 11 of SF 424. The description of the project must be consistent with that shown on the notice allocation, if applicable. No changes are authorized unless effected by a program change in accordance with the procedures in Section 5 of Chapter 9. Since all such items are to be covered by the plans and specifications or shown on Exhibit A, the property map, it is necessary only that this block list in general terms the items of airport development contemplated. The scope and description of work as set forth in the grant agreement is the controlling factor as to the work which is to be accomplished under the grant agreement

1003. SUPPORTING MATERIAL AND DOCUMENTATION. Supporting material and documentation required to be submitted with a preapplication will be included with the AIP application whenever a preapplication is not required (see paragraph 910 and 911). The following material and documentation, as required, should be furnished with the application if such material has changed or has not already been
submitted:

a. Plans and Specifications. Plans and specifications in final form unless a later submittal is approved by the FAA. Grant awards based on preliminary plans and specifications should be held to a minimum and only made on an exceptional basis (see paragraph 935b). In such cases, preliminary plans and specifications, in sufficient detail to identify the airport development proposed, will be required.

b. Construction Safety Plan. A construction safety plan covering all aspects of safety during construction. However, on large complex projects, the safety plan will normally be a separate document within the specifications package.

c. Estimates of costs. This may include a tabulation of bids if such bidding has taken place or the engineer's estimate.

d. Property Map (Exhibit A). The sponsor will submit a property map (see paragraph 1009) with the application. The map may be incorporated by reference if it was submitted with a prior application and has not changed or will not change as a result of the current project.

e. Land Inventory Map. A land inventory map should be prepared by the Sponsor in accordance with Appendix 7 of Order 5190.6.

f. Agreements. If the project involves two or more cosponsors, an agent, or state sponsorship, an agency and/or cosponsorship agreement should be on file. See paragraphs 202,203, and 209, respectively.

g. Air and Water Quality Certification. In projects involving airport location, a major runway extension, or runway location, the sponsor must obtain and submit with the application a certification by the responsible state official of the state within which the project is located that there is reasonable assurance that the project will be located, designed, constructed and operated so as to comply with applicable air and water quality standards.

h. Other. Such additional supporting data as may be required to provide complete information on any of the representations or covenants of the application or any unusual situation or problem which may have any bearing on project approval, such as title evidence and appraisal reports.

1004. APPROVALS OF OTHER AGENCIES. In the representations as to approvals of other agencies, as required by Part II, section A of FAA Form 5100-100, the sponsor should list the approval of all nonfederal rule, the name if the approving agency and date of approval will be sufficient. However, where a state law requires channeling through a state aeronautics commission must be indicated by endorsement or by other means which the commission may want to use.

1005. SPONSOR'S PAST ACTIONS TO RESTRICT ADJACENT LAND USE.

a. In paragraph 1 of Part II, Section C of the FAA Form 5100-100, the sponsor should state what past action, if any, has been taken to restrict the use of land adjacent to or in the vicinity of the airport to activities and purposes compatible with normal airport operations. This does not include action taken to protect runway protection zones. It should include a brief but concise description of the extent and effectiveness of zoning laws achieved through the sponsor's efforts, or efforts of other public agencies which have jurisdiction over pertinent areas. It should also include descriptions of any attempts to enact zoning legislation, attempts to persuade other public agencies to enact zoning legislation and any other action the sponsor has taken to assure appropriate adjacent land use.

b. If the sponsor has not taken any action and does not believe that any action is desirable or appropriate under the circumstances, it should so state, setting forth its reasons.

1006. DEFAULTS. Representations required by paragraph 2, Part II, section C of FAA Form 5100-100, relate to contracts or other obligations to the United States or to any Federal agency involving the development, operation, or maintenance of any airport owned by the sponsor. Particular attention should be given to the provisions of any agreement entered into by the sponsor with the United States as a condition to the receipt of Federal aid for the development of an airport. This representation should be accepted without further investigation unless the information available indicates that additional review is necessary.

1007. POSSIBLE DISABILITIES. If there are any factors or circumstances of the nature referred to in paragraph 3, Part II, section C of the project application, which have not been brought to the attention of the FAA prior to the submission of an application, the sponsor should submit with its application a full

and complete statement of such facts or circumstances. If there is no reason to doubt the sponsor representation that there are no disabilities, it may be accepted without further investigation.

1008. AIRPORT LAND. Paragraph 4(a) of Part II, section C of the project application, requires a certification of title and a listing of all areas of airport lands which have been acquired by the sponsor prior to the submission of the application, identifying them by area numbers as shown on the property map attached or incorporated by reference and indicating, with respect to each such area, the interest held by the sponsor. Such certification and listing need not be resubmitted if no change in prior certification has occurred.

a. Description of Property Interest Held. In the case of each area in which the sponsor holds title in fee, such interest should be described as "title in fee, free and clear of all liens, easements, leases, and other encumbrances and adverse interest." If there are any such encumbrances or adverse interests, they should be specified and the title described as title in fee, subject only to such named encumbrances or adverse interests. Similarly, where the sponsor holds some lesser property interest, such interest should be specified indicating the authority under which such interest is held. If the interest is a leasehold estate granted by some other public agency, a certified copy of the instrument creating such interest should be attached. The sponsor must certify that its representations regarding property interest are based upon a title examination by a qualified attorney or title company and that such attorney or title company has determined that the sponsor holds such property interests.

b. Scope of Representation. The representation regarding property interest should cover all airport land, as shown on Exhibit A, whether or not the sponsor is requesting a Federal grant for such land.

1009. PROPERTY MAP (EXHIBIT A).

a. General. The property map (Exhibit A) accompanying the application should:

(1) Delineate the existing runway configuration, future runways, and existing and future clear zones;

(2) Identify clearly all land which is to be developed or used as part of, or in connection with, the airport. Fee title or lesser interest in land to be acquired by the sponsor should be identified on the map by parcel or tract according to existing or prior ownership. All interests (e.g., avigation, drainage, and utility easements, permits, etc.) held or to be acquired should be described in legal fashion;

(3) Show property interests now held or to be acquired as part of the project and indicate by color, shade, or crosshatch those areas for which Federal aid is requested, and which are for current aeronautical use, noise abatement, and future land to be acquired under the project, buildings, facilities and other improvements on land which will be involved under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(4) Show the location of the easements or other encumbrances which are tangible with a brief descriptive note;

(5) Show any approved land release or consent to use for nonairport purposes.

b. Additional Sheets. Additional sheets of the property map showing meets and bounds description of land to be acquired and blowups of individual parcels may be used to clearly show the details of all projects. Such sheets should be identified by sheet number and not by letter.

1010. SPONSOR FUNDS SOURCE.

a. Evidence of Funds Source. If the sponsor is unable to comply with the assurances regarding fund availability, the FAA may require the sponsor to submit information regarding the status of sponsor funds. This should include pertinent data to permit a determination whether the sponsor will be in a position to pay its share of the project costs, such as:

(1) An itemization of all contributions or donations of land, materials, equipment, labor, or other assets to be made to the project and claimed by the sponsor as project costs showing the estimated value or costs of each such contributed or donated item;

(2) The nature of any assurances received by the sponsor that such funds will be made available.

b. Insufficient Evidence of Funds Source. The following would not be sufficient evidence of availability of funds:

(1) A promise or covenant on the part of the sponsor to supply funds as needed;

(2) A statement that funds will be appropriated, unless accompanied by evidence that the sponsor has sufficient funds to appropriate, or that based on existing tax rates, collections and existing and anticipated indebtedness and obligations, etc., it reasonably can be expected to have sufficient money to appropriate.

c. Joint Funding. If any portion of the sponsor's funds is to be provided by a public agency other than the sponsor, evidence of the availability of such funds may be furnished separately by the public agency providing such funds. This information may be furnished by separate document attached to the application and incorporated therein by reference if the sponsor so desires.

1011. CALCULATING THE FEDERAL GRANT. Section B of Part III of FAA Form 5100-100 contains the information necessary to determine the Federal share of the project. The first 13 lines are categories of costs that comprise most projects. Generally, these costs will be based on much more detailed cost estimates prepared during the development of the project application. Field personnel may need to review the detailed cost estimates in order to determine the Federal share. (NOTE: Item 18 on this form is entitled “Contingencies” which is not an allowable cost under OMB A-87. Sponsors should be so advised and no cost should appear on that line.)

1012. DONATIONS. The sponsor's intent to claim the value of donated land, labor, material, or equipment as a project cost must be indicated in Section D, Part III of FAA Form 5100-100, as appropriate, thus putting the FAA on notice of the extent to which the project involves donations. Section 4of Chapter 3 provides detailed procedures on treatment of donations.

1013. PROGRAM NARRATIVE. Part IV of FAA Form 5100-100 requires the sponsor to furnish a program narrative containing sufficient data prepared in accordance with the instructions included with the form. The sponsor should be advised to include in the narrative any additional information the FAA feels it needs.

1014. SPONSOR ASSURANCES. The application contains specific assurances for compliance with certain regulations, policies, guidelines, and requirements as related to the application, acceptance, and use of AIP funds. One set of assurances applies to airport sponsors, a second to planning agency sponsors. The third set applies to noise implementation projects undertaken by nonairport sponsors. (See Appendix 1.)

1015. UNNECESSARY DUPLICATION OF DOCUMENTATION. Any material submitted with the preapplication need not be resubmitted with the application if there has been no change in that material.

1016.-1019. RESERVED.

SECTION 2. APPLICATION REVIEW AND APPROVAL

1020. GENERAL. The application and supporting documents should be reviewed for accuracy and completeness and the sponsor requested to furnish any supplemental information. Upon completion of the review, the appropriate field office should forward the application along with necessary documentation to the approving official for action. The issuance of a grant offer by the FAA constitutes approval of the application. The field office may adjust the depth and intensity of the review of various supporting material in Section 1 above in accordance with the complexity of the project, the amount of the grant, the size of the sponsor, and past experience with that sponsor.

1021. PROJECT SUMMARY. Preparing a detailed report of the project and a recommended action for use by the approving official is no longer mandatory, but the regional Airports Divisions may continue to do so.

1022. DETERMINATION OF REASONABLENESS OF COSTS. To be allowable, a cost must be reasonable. When a project cost appears excessive, close attention should be paid to the plans and specifications to determine whether the excessive cost is due to overdesign. Projects for which there are no FAA specifications may require redesign so that the project benefits will justify the costs. FAA field personnel should determine during the review of the application that the amount of funds requested by the sponsor is reasonable. Issuance of a grant offer constitutes a determination in this regard. The determination should be made in accordance with one of the following guidelines:

a. Application amounts based upon estimated costs:

(1) Requested amounts should be compared to the costs of similar type work included in other recently awarded grants, taking into account such factors as inflation and geographical differences;

(2) Estimated cost of land acquisition should be based on appraisals of the parcels to be acquired as well as appropriate relocation assistance and administrative costs.

b. Application amounts based upon competitive bids:

(1) The sponsor is required to submit an itemized abstract of bids and a copy of the engineer's estimate, both to be included in the project file. The low bid should be compared to the engineer's estimate, as well as costs for similar type work in other projects. If there are several bids, it may not be necessary to compare the low bids to costs in other projects since experience has shown that the greater the number of bidders, the lower the price;

(2) If only one bid is received, the FAA should encourage the sponsor to negotiate with the sole bidder to obtain lower prices if such negotiation is permitted by state or local law;

(3) If there are less than five bidders and the low bid exceeds the engineer's estimate by 10%, the grant should not be issued unless the FAA satisfies itself that the costs are reasonable.

1023. REVIEW FOR BID IMPROPRIETIES.

a. In reviewing the abstract of bids to determine the reasonableness of costs, field offices should be alert to possibilities of improprieties in the procurement process such as bid rigging and collusion.

Field offices should notify the Office of Inspector General (OIG) Regional Special Agent-In-Charge of Investigations when:

(1) There are five or fewer bidders on a construction project and the low bid is 95% or more of the engineer's estimate and the bid is $500,000 or more;

(2) There is only a single bidder on a construction contract and the bid is $250,000 or more;

(3) Any bid package which FAA field personnel feel contains any unusual or suspicious bid patterns or activities.

b. The bid package shall not be submitted to the OIG unless requested, and the grant award should not be delayed unless the Special Agent-In-Charge indicates otherwise.

1024.-1099. RESERVED.

CHAPTER 11. GRANT OFFER AND AGREEMTNT
SECTION 1. GRANT OFFER

1100. GENERAL. A grant offer is the formal document prepared and signed by the FAA and sent to the sponsor wherein the FAA declares its intent to pay a portion of the allowable costs of an AIP project for which a project application has been approved. The signature of a sponsor accepting the grant offer constitutes a grant agreement which is a contract obligating the sponsor and the United States in accordance with the terms and conditions of the grant document. Part I of FAA Form 5100-37 (Appendix 8) is the standard form to be used in preparing a grant offer. No changes or modifications shall be made to the standard terms and provisions of the form unless approved by the FAA headquarters. The grant offer must be consistent with the approved project application. It should be dated and signed by the FAA official authorized to approve the project and sent to the sponsor.

1101. PROJECT DESCRIPTION. The project description must be carefully described on page 1 of FAA Form 5100-37 in sufficient detail to identify each item of the project. Runways being developed or improved under the project should be identified by direction or number and by the length and the width. Taxiways or aprons being constructed or improved should be specifically identified. A general term such as “construction of taxiway” should not be used. Runway protection zone acquisition and approach clearing should be described in connection with the particular runway end being protected and the objects to be removed or lowered. All construction work must be shown in detail in the approved project plans. It is also essential that the grant offer be specific as to areas, tracts, or parcels of land, the acquisition of which is included in the project. All work eligible under the Aviation Safety Noise Abatement Act (ASNA) should be clearly identified. The full project description on the Form 5100-107 may be used here if in sufficient detail. The work description should be in sufficient detail to allow calculation of differing Federal share of work items, as applicable.

1102. MULTI-YEAR GRANTS. Under this type of grant, the FAA agrees to commit the sponsor's future years entitlement funds to the project. The initial grant offer contains a current year of obligation as well as the total U.S. share of the estimated cost of completion of the project. The initial year of a Multi-Year Grant must include entitlement funds and may include discretionary funds as well. Each year of the project, the grant must be amended to include additional obligations. This can be achieved through a formal grant amendment or through a letter of agreement sent to the sponsor to obligate the new entitlement funds. Each procedure has its own special condition format in the initial grant agreement.

a. Applicability. This type of grant may be issued for a project that meets both of the following conditions:

(1) The project is funded with entitlement funds under section 507 (a)(1) and 507 (a)(2) of the AAIA (except as noted above); and

(2) The project will not be completed in one fiscal year. (See section 512(a) of the Act.)

b. Grant Agreement Format.

(1) The following clause should be inserted after the words "Project Application" at the bottom of page 1 of FAA Form 5100-37: "Whereas this project will not be completed during fiscal year 19 , and the total U.S. share of the estimated cost of completion will be $;"

(2) See Appendix 9 for the Special Condition which should be added on page 4 of FAA Form 5100-37.

c. Establishment of U.S. Share.

(1) The cost of the eligible work in the total project is estimated. The U.S. share is calculated using the applicable participation rates for the type of work.

(2) The amount calculated in c(l) may not exceed the sum of the sponsor's current entitlement funds, the entitlement funds expected to be received through the duration of the project, and the amount of discretionary funds that can be committed to the project in the initial year.

(3) If the amount calculated in c(l) exceeds the amount estimated to be available in c(2), then the scope of the project should be reduced until the two amounts are equal.

d. Initial Year. The U.S. share established in c. above is stated in the grant agreement (see b(1), above) and represents the total U.S. share of the cost of the project. The initial grant also specifies a current year obligation consisting of the sponsor's current entitlement funds and available discretionary funds, if
any.

e. Follow-on Years. The grant may be formally amended each fiscal year (see Section 4 of this chapter) or continued through a letter of agreement (Appendix 20) through the duration of the project to include additional obligations for the new fiscal year with the sponsor's entitlement funds. However, the sum of the yearly obligations under the Multi-Year Grant may not exceed the total U.S. share of the estimated cost of completion established in c. above.

f. Increasing the Total U.S. Share of the Estimated Cost of Completion. Once established in the initial grant agreement, the total U.S. share of the estimated cost of completion may be increased in accordance with paragraph 1132.

g. Change in Participation Rate. If, in subsequent years following that award of a multi-year grant, the sponsor's participation rate changes (e.g. the airport goes from a large primary to a primary and the rate changes from 75% to 90%), the Federal share of the project cost will be at the current year rate and not at the rate of the initial year in which the Multi-Year Grant was signed. The grant amendment increase limitation of 15% (for grants executed after September 30, 1987) will still apply.

1103. STANDARD CONDITIONS. The standard conditions are listed on the grant agreement (FAA Form 5100-37 (Appendix 8)) and apply to all grants. They are self-explanatory, except:

a. Condition #1. Since the AAIA provides that the maximum obligation of the United States may be increased by 15 percent except for planning, it is necessary to identify, as part of the grant agreement, the amount included in the agreement for planning.

b. Condition #6. This condition provides for the insertion of a stipulated number of days within which the offer must be accepted by the sponsor. Ordinarily, a 60-day period is sufficient for acceptance of the offer and in any case when the stipulated time will exceed 90 days, then APP-500 shall be consulted. In some instances, a period less than 60 days for acceptance may be necessary. Since all grant offers must be accepted in the fiscal year in which they are made, the period of acceptance should be adjusted for all offers made after August 1.

1104. FINAL CLEARANCE OF GRANT OFFER. The grant offer may not be issued unless the approving FAA official is satisfied to the best of his/her knowledge the project application and supporting documents meet all the requirements of the Act and the FAA regulations and are in accordance with current national policies.

1105. LETTER OF INTENT. See Section 6 of Chapter 9.

1106.-1109. RESERVED.

SECTION 2. SPECIAL CONDITIONS

1110. GENERAL.

a. Special conditions are used to accommodate particular circumstances needed in a grant agreement which are not satisfied by the standard conditions. Special conditions may be unique to a sponsor or required for a certain type of project (e.g., a project with a proration of Federal share of building and utility costs).

b. Failure to meet any special condition which incorporated a deadline date can be grounds for withholding grant payment. Therefore, any special condition requiring a deadline date should contain that specific deadline.

1111. SPECIAL CONDITIONS TO BE INCLUDED IN GRANT AGREEMENTS. Special conditions to be used as required in grant agreements can be found in Appendix 9 and are referenced in the appropriate paragraphs in this Order.

1112. OTHER SUBJECTS WHICH MAY REQUIRE SPECIAL CONDITIONS. In addition to special conditions in Appendix 9, other special conditions may be required to meet statutory requirements or to comply with circumstances unique to the project. Examples of subjects covered are:

a. State channeling and/or agency agreement;

b. Correction of deficiencies in property identification or title representations;

c. Identification of specific and acquisition;

d. Airport zoning;

e. Identification of development excluded from Federal participation;

f. Environmental impact mitigation commitments;

g. Other Federal funds. Where other Federal funds are used to supplement AIP funds, the grant offer should include a special condition which shows clearly:

(1) The amount available from each Federal grant program;

(2) Conditions pertaining to the use of such funds, including the applicable methodology or determining the share of each grantor agency in the event of changing project costs.

1113.-1119. RESERVED.

SECTION 3. ACCEPTANCE OF GRANT OFFER

1120. GENERAL. After the signature of the FAA approving official, sufficient copies of the grant offer to satisfy regional requirements shall be sent to the sponsor for execution. If in agreement with the grant offer, the sponsor will sign Part II of the grant agreement and have the signature notarized. The sponsor's attorney must certify that the sponsor's acceptance complies with local and state law and constitutes a legal and binding obligation of the sponsor. The sponsor will return the executed documents to the appropriate field office.

1121. TIME LIMIT FOR ACCEPTANCE OF OFFER. Normally, a 60-day period is a sufficient time for the sponsor to accept or reject the grant offer. The time limit should not exceed 90 days unless there has been prior concurrence by APP-500. See paragraph 1103b.

1122. DISTRIBUTION AND NOTIFICATION OF GRANT AGREEMENT.

a. The field office immediately upon receipt of the grant agreement from the sponsor will notify the Regional Airports Division and Accounting Office indicating the name and location of the project, project number, date of acceptance of the grant offer by the sponsor and the total Federal funds in the grant agreement. During the month of September, a dispatch should be sent concurrently to APP-500. Example: GRANT OFFER, ALLEN C. THOMPSON FIELD, JACKSON, MISSISSIPPI, 828003701, ACCEPTED SEPTEMBER 15, 1982, FEDERAL FUNDS 328,000.

b. Distribution of the copies of the executed grant agreement shall be in accordance with regional practice.

1123. REVISION OF GRANT OFFER. Occasionally, the sponsor or the FAA may wish to modify the offer before it is accepted. Also, the FAA, at its discretion, may withdraw the offer at any time before the sponsor accepts it. Generally, such revision will relate to a change in the scope, description or maximum obligation for the project, or an extension of the time for acceptance by the sponsor.

a. Change in Scope of Project. Where such action is in the interest of the United States, the scope of the project may be changed.

b. Reducing Maximum Obligation. If it appears from the receipt of bids or other causes, that the amount of the offer is in excess of the amount required to pay the United States share of the latest estimated cost of the project, the maximum amount stated in the offer should be reduced accordingly.

c. Increasing Maximum Obligation.

(1) Request for Increase. If the sponsor determines that the maximum obligation of the United States under the offer is insufficient, it may request an increase. This determination may come from various sources including a recheck of the project estimate or, more conclusively, the receipt of bids indicating the need for a higher maximum amount.

(2) Justification for Increase. The sponsor must give complete justification for the request setting forth the amount of the increase requested, together with a statement of the facts surrounding the unforeseen contingency or circumstances necessitating the increase. The FAA shall review the justification and may issue a revised grant offer if the justification is deemed adequate.

d. Withdrawal of Offer. If it appears that Federal funds are insufficient to permit participation in the increased amounts requested, if the project cannot be completed at a reasonable cost, or if other circumstances may warrant, the FAA may withdraw the offer at any time before the offer is accepted.

1124.-1129. RESERVED.

SECTION 4. GRANT AMENDMENTS

1130. GENERAL. Subject to the conditions in the following paragraphs, a grant agreement may be amended after its execution.

1131. AMENDMENTS INVOLVING A CHANGE IN THE WORK DESCRIPTION. Regional Airports Divisions are authorized to amend AIP grant agreements to change the work description. This may involve adding work items, deleting work items, or a combination of both.

a. Adding Work Items. Before amending a grant to add an item of work, regional offices must ensure that:

(1) It is advantageous to the government to accomplish the new development items under an amendment to an existing grant agreement rather than by issuance of a new grant agreement.

(2) Funds are available within the existing grant to cover the cost of the new development item.

(a) If funds in the existing grant are insufficient to cover the cost of the new work, funds may be added in accordance with paragraph 1132b.

(b) Items of work shall not be added to a grant solely because funds are available. The need for the additional items must be fully justified and documented. This may be done on FAA Form 5100-107.

(3) Costs incurred for work undertaken on the new development item prior to execution of the amendment are excluded from the amendment (except for costs allowed under paragraph 310a(3)).

(4) All other statutory and regulatory requirements that may apply to the particular item of development that were not satisfied by the original grant agreement have been or will be complied with at the appropriate time (e.g., environmental or labor).

b. Deleting Work Items. Grant agreements may be amended to delete items of work. The amendment shall be supported by documents indicating the purpose, nature, and effect of the amendment, the resulting advantages to the United States, and a finding that the amendment does not prejudice the interests of the United States. In deleting items from the grant, the conditions below must be observed:

(1) Normally, the maximum obligation of the United States should be reduced by the U.S. share of the deleted item as calculated from the application amount. If the funds are not reduced, the project file shall be fully documented to explain why the action is not prejudicial to the interests of the United States.

(2) Land for which costs have been incurred during the grant period may be deleted but cannot be reprogrammed in another grant. If costs have not been incurred for the land during the grant period, it may be deleted and then later reprogrammed.

c. Substitution of Work Items. In some cases, it is in the best interests of the United States and the sponsor to delete items of work and replace them with new items. If the substituted items are not of equal value to the deleted items, then the obligation of the United States should be adjusted accordingly. As a minimum the project file shall be documented to include:

(1) An explanation as to why originally programmed items are no longer needed at this time. The deletion must be shown to be in the best interest of the Government. The amount for the deleted items included in the grant must also be indicated;

(2) An explanation as to why substituted items are needed at this time and their estimated costs. It must be shown that programming the new items is in the best interest of the Government. Items may not be added solely because there will be excess funds in the grant as a result of deleting items.

1132. AMENDMENTS INVOLVING A CHANGE IN THE U.S. OBLIGATION. Regional Airports Divisions may amend a grant agreement to change the maximum obligation of the United States as follows:

a. Decreases in the Maximum U.S. Obligation. The maximum obligation should be decreased when there are excess funds in the grant unless additional items should be included in accordance with paragraph 1131. Excess funds may result from the deletion of work items (decrease should be made simultaneously with deletion) or actual bids being less than estimates when the grant amount is based upon estimates. Either the sponsor or the FAA may initiate a decrease in the U.S. obligation. If the excess of funds is $25,000 or more, the regions should initiate a grant amendment, otherwise the adjustment may be made at grant closeout.

b. Increases in the Maximum U.S. Obligation for Grants Executed Prior to October 1, 1987. If total actual allowable project costs exceed the total estimated project costs upon which the maximum obligation is based, the maximum obligation of the U.S. specified in the Grant Agreement may be increased as follows:

(1) Airport Development or Noise Implementation Programs. If the increase in total project costs is attributable solely to an increase in airport development or noise implementation program costs other than land acquisition, then the maximum obligation may be increased by the applicable U.S. share of the total allowable excess project costs, not to exceed 10 percent of the maximum obligation.

(2) Land Acquisition. If the increase in total project costs is attributable solely to the increase in land acquisition costs, the maximum U.S. obligation may be increased by 50 percent of the total allowable excess project costs.

(3) Combination of Airport Development, Noise Implementation Programs and Land Acquisition. If the increase in total project costs is attributable to both (1) and (2) above, then the maximum obligation of the United States may be increased by the total of:

(a) The U.S. share of the increased airport development and/or noise implementation costs (other than land acquisition costs) not to exceed 10 percent of the maximum obligation of the grant; and

(b) 50 percent of the difference between the total actual allowable land acquisition costs and the sum of the land cost base and the sponsor's share applicable to such base. The land cost base is the figure shown in the original grant agreement under Condition 1 for Land Acquisition. (See paragraph 1103 and Appendix 17.)

c. Increases in the Maximum U.S. Obligation for Grants Executed after September 30, 1987. If total actual allowable project costs for airport development or noise implementation projects or land acquisition exceed the total estimated project costs upon which the maximum obligation is based, the maximum obligation of the U.S. specified in the Grant Agreement may be increased by 15%.

d. Planning Items. If the increase in project costs is attributable to planning items, the maximum U.S. obligation may not be increased.

e. Multi-Year Project. A Multi-Year Grant may be amended each fiscal year through the duration of the project to increase the actual U.S. obligation provided that the total project cost does not exceed the U.S. obligational commitment stated in the grant plus any increase allowed in this paragraph. (See paragraph 1102.)

f. Request for Amendment.

(1) Any amendment involving an increase in the maximum U.S. obligation must be requested by the sponsor in writing.

(2) The request must state the purpose and amount of the amendment and be supported by whatever documentation (e.g., plans and specifications, cost information, etc.) that the FAA project manager considers necessary.

(3) The foregoing request and documentation is not necessary if the project is a Multi-Year Grant and the amount of the amendment will not make the U.S. obligation exceed the maximum

obligational
commitment**********
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**********ous to the Government. The basis for the amendment shall be reflected in the project folder. A general statement that the increase is for cost overruns is not acceptable. Instead, the documentation should contain specific information such as:

(a) Increases necessitated by work under Change Orders (specific change);

(b) Increase due to actual excavation quantities being greater than original estimate;

(c) Increase due to increased land acquisition costs for parcels (specify) over original estimate;

(d) Grant issue based on estimates; increase to cover actual construction bid which was higher then estimate.

1133. ACCEPTANCE OF AMENDMENT. In accepting the amendment to the grant agreement, the sponsor will follow the same procedure for grant acceptance. Distribution of the amendment shall be the same as for the original agreement. It is imperative that a copy be furnished the Accounting Office to comply with fund control procedures. (See Appendix 18.)

1134. NUMBERING AMENDMENTS. Each amendment to a grant agreement shall be numbered in consecutive order. The number will be placed in the heading of the document as follows: "Amendment No. 1 to Grant Agreement for Project No. 3-36-0009-01."

1135.-1139. RESERVED.

SECTION 5. SUSPENSION AND TERMINATION OF THE GRANT

1140. GENERAL. Failure to comply with grant conditions, other than civil rights, may result in suspension or termination of the grant. Applicable regulations should be reviewed for compliance procedures to follow in the event of violation of the civil rights provisions outlined in Chapter 14. (See paragraph 1305 for withholding of payment.)

1141. SUSPENSION OF THE GRANT. If the sponsor fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor, suspend the grant in whole or in part. Additional obligations incurred during the period of suspension after receipt of the notice will not be eligible, unless specifically authorized in writing by the FAA. However, the FAA may allow costs which are otherwise allowable and could not be avoided during the period of suspension. The notice of suspension shall contain the following:

a. The reasons for the suspension and the corrective action necessary to lift the suspension;

b. A date by which the corrective action must be taken;

c. Notification that consideration will be given to terminating the grant after that date.

1142. TERMINATION FOR CAUSE. If the sponsor fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor, unilaterally terminate the grant for cause. In all correspondence which may lead to termination for cause, care should be taken to use only factual and objective language. Airports field offices shall use the following procedures:

a. The grant shall be suspended in accordance with paragraph 1141;

b. APP-1 shall be notified, in writing, of the proposed termination. A copy of the notice of suspension and the regional assessment of the action taken by the sponsor to remedy the situation shall also be forwarded to APP-1.

c. Upon receipt, APP-500 will acknowledge the proposed termination via telephone. Within 30 days of APP-500's acknowledgement, the region will be notified, in writing, whether or not the proposed termination will require APP-1's concurrence. The region will be notified of the procedures to follow if APP-1 concurrence is required.

d. The sponsor shall be notified, in writing, of the termination. The notice shall include the reasons for the termination. Payments to be made to the sponsor or recoveries of payment by the FAA under the grant shall be in accordance with the legal rights and liabilities of the parties.

1143. TERMINATION FOR CONVENIENCE. When the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds, the grant may be terminated, in whole or in part, upon mutual agreement of the regional Airports Division manager and the sponsor. Agreement will be made upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. In such case, the sponsor may not incur new obligations for the terminated portion after the effective date and shall cancel as many obligations relating to the terminated portion as possible. The sponsor will, however, be allowed full credit for the Federal share of the noncancellable obligations which were properly incurred by the sponsor prior to the effective termination date.

1144. REQUEST FOR RECONSIDERATION. In any case of suspension or termination, the sponsor may request the Administrator to reconsider the suspension or termination. Such request for reconsideration shall be made within 45 days after receipt of the notice of suspension or termination. All notices of suspension or termination must inform the sponsor of this appeal process.

1145. DISTRIBUTION. Copies of suspension and termination documents shall be distributed in the same manner as the distribution of the original agreement and any amendments.

1146.-1199. RESERVED.

CHAPTER 12. PROJECT ACCOMPLISHMENT
SECTION 1. PRECONSTRUCTION PROCEDURES

1200. REVIEW OF PROPOSED CONTRACT. If the proposed contract to be awarded under the procurement procedures outlined in Chapter 8 has not been reviewed with the bid tabulation before the grant offer, it should be reviewed to insure compliance with all requirements after the grant agreement, as outlined below:

a. Preaward Review Required. Preaward review of proposed contracts is required in the following cases:

(1) The sponsor does not comply with the standards promulgated in 49 CFR 18.36, Procurement.

(2) The proposed contract is to be awarded on a sole source basis or where only one bid or proposal is received in which the aggregate expenditures exceed $25,000 (all proposed contracts specifying “brand name” products shall be considered sole source procurements);

(3) The apparent low bidder under a formally advertised procurement is determined by the sponsor to be a nonresponsive and/or not responsible bidder (the FAA must review and concur in this determination and document it in the project file); or

(4) A review of the bid abstract reveals the possibility of bid improprieties (see paragraph 1023).

b. Preaward Review Optional. The field offices have the option to impose preaward review when:

(1) Sponsors are working on their first assistance project supported by DOT and have not yet been reviewed for compliance with the standards contained in 49 CFR 18.36, Procurement.

(2) Sponsors request preaward assistance for proposed contracts;

(3) Contracts are awarded for automatic data processing in accordance with paragraph C1 of Attachment B to OMB Circular A-87;

(4) Contracts are repeatedly awarded to the same firm;

(5) Purchasing is performed outside the sponsor's established procurement system or office; and/or

(6) Proposed construction contracts are to be awarded through the competitive proposal procurement method.

1201. REVIEW OF CONTRACT DOCUMENTS. When requested by the FAA field office, the sponsor shall submit one copy of the executed contract and other procurement documents for review to determine whether all of the required contract provisions have been included.

1202. SPONSOR CERTIFICATION. Regional Airports Divisions may require sponsor certification to any or all of the contracting process in lieu of FAA review and approval. (See Chapter 15, Section 4.)

1203. LAND TITLE REQUIREMENT. Authorization for the sponsor to issue a notice to proceed with construction work should generally not be given until it has been determined that the required property interests have been acquired in the land on which construction is to be performed. In some cases, the deferral of a notice to proceed until this determination is made may unduly delay project construction and result in increased project costs. In cases where the field office is satisfied that good title will be forthcoming and where the sponsor has obtained a right to enter upon the land to commence construction and certifies that it will acquire adequate title, a notice to proceed may be authorized.

1204. AUTHORIZATION OF NOTICE TO PROCEED. When FAA is satisfied that preconstruction requirements have been satisfied, that the plans and specifications conform to the general scope and design concepts agreed upon, that costs are considered reasonable, and that appropriate engineering/construction standards will be complied with, it shall authorize the sponsor to proceed with construction and to issue the necessary notice to proceed to its contractors.

1205. DELAY IN CONSTRUCTION START. If construction is delayed beyond the approved schedule, appropriate action must be taken. (See paragraph 935.)

1206.-1209. RESERVED.

SECTION 2. PRECONSTRUCTION CONFERENCE.

1210. PURPOSES AND PARTICIPATION.

a. Purpose for Conference. Where appropriate, the field office should request that the sponsor hold a preconstruction conference to familiarize all interested parties with the various requirements of the project. One major advantage of the conference is that, through a discussion of each requirement, the responsibility of parties may be determined. (AC 150/5300-9 provides additional guidance on conducting preconstruction meetings.)

b. Participation.

(1) The participants will vary with the nature of airport activities and work to be performed and may include:

(a) The sponsor's engineer and testing personnel;
(b) The airport manager;
(c) Other sponsor representatives as selected by the sponsor;
(d) The state agency representative, if applicable;
(e) The contractor and subcontractors;
(f) Fixed-base operators;
(g) Representative of Airports field office;
(h) Other FAA representatives, as appropriate;
(i) Local managers for airlines;
(j) Representatives of military organizations;
(k) Air Transport Association representatives;
(l) Others, as appropriate.

(2) The field office should assure that all appropriate FAA offices, military installations, and Federal agencies that may have an interest in the project are notified so that they may have the opportunity to be represented at the conference.

1211. SCOPE AND AGENDA. The scope and agenda of a preconstruction conference should be designed to address the requirements and special concerns of the particular project and of the participants. AC 150/5300-9 provides guidance on items to be considered in developing an agenda.

1212. LABOR AND CIVIL RIGHTS REQUIREMENTS. If in attendance, the FAA representative should be prepared to discuss labor and civil rights requirements, as outlined in AC 150/5100-6 and AC 150/5100-15.

1213.-1219. RESERVED.

SECTION 3. CONSTRUCTION PROCEDURES

1220. SPONSOR'S RESPONSIBILITIES. Field offices should advise the sponsor of the sponsor's direct responsibility for monitoring project accomplishment to ensure that the work is carried out in accordance with the plans and specifications; that time schedules are observed; that Federal labor and civil rights provisions are followed; and that all other terms and conditions in the contract documents and grant agreement are implemented. The following are also specific responsibilities during construction of which the sponsor must be advised:

a. Supervision and Inspection. The sponsor is required to provide adequate, competent, and qualified engineering supervision and construction inspection during all stages of the work. If so desired or deemed necessary, FAA may require a sponsor to furnish a signed statement that it has reviewed the

qualifications of personnel who will be performing engineering supervision and conducting inspections and is satisfied that they are qualified and competent to do so.

b. Construction Records. The FAA should advise the sponsor that daily construction records must be kept by the resident engineer. Some of the data that should be a part of these records include:

(1) Daily weather conditions and temperatures;
(2) Work in process and general location;
(3) Equipment in use;
(4) Adequacy and size of work force including supervision;
(5) Hours worked per day for contractor, subcontractor, testing laboratory and resident engineers;
(6) Quality and quantity of materials delivered;
(7) Tests performed and locations;
(8) Test results;
(9) Instructions to the contractor, such as minor changes to grade, work schedule, gradation of material or mix design, and alignment;
(10) As-built drawings; and
(11) Documentation of each pay item quantity measurement.

c. Sponsor Quarterly Performance Report.

(1) The sponsor must be advised of the need to submit to the field office a performance report, on a quarterly basis, which includes:

(a) A comparison of actual accomplishments to the goals established for the period. Where applicable, a comparison will be made on a quantitative basis related to cost data for computation of unit costs;

(b) Reasons for slippage in those cases where established goals are not met; and

(c) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(2) If any performance review conducted by the sponsor discloses a need for a grant amendment, the sponsor should be required to submit a request for the amendment on FAA Form 5100-100, section B. Such request is made by the sponsor whenever:

(a) The revision results from changes in the scope or objective of the project; or

(b) The revision increases or decreases the amounts of Federal funds needed to complete the project.

d. Construction Progress and Inspection Report. The sponsor may be required by the region to submit FAA Form 5370-1 (RIS: 5100-5) (Appendix 13) periodically on a case-by-case basis.

e. Special Reports. Regardless of the performance reporting schedule, sponsors are to be advised to notify FAA immediately whenever problems, events, or deficiencies occur that will require a major change in the scope of the project, or significantly affect the construction schedule or increase the total funds needed to complete the project by an amount which the region considers significant. The sponsor will be notified by the region of the amount above which will trigger the special report.

1221. FAA RESPONSIBILITIES. FAA has a responsibility to ensure that the terms and conditions of the grant agreement are met and to maintain a broad overview of AIP construction projects. This can be achieved by:

a. Periodic Inspections. Periodic inspections may be scheduled by FAA at a frequency that is dependent on the proposed construction schedule, the complexity of the project, the relative capability of the sponsor's engineer and inspection personnel, the availability of FAA inspectors, and other considerations as appropriate. In no case shall FAA personnel place themselves in the role of providing resident inspection services or issuing construction directions to sponsor's contractors. During periodic inspections and at other times as appropriate, FAA may wish to inspect daily construction records to review past project activities and to evaluate the adequacy of sponsor's inspection and engineering capabilities.

b. Requiring Construction Progress Reports. The region may require a sponsor to submit FAA Form 5370-1 on a periodic basis. Requirement and frequency shall be determined based on the region's need for monitoring and control of the individual project.

c. Labor Provision Reviews and Investigations. Compliance with and enforcement of Federal labor provisions shall be in accordance with the procedures in the Department of Labor regulations (29 CFR Part 5). (See Chapter 14.)

d. Civil Rights Review. Regional field offices shall coordinate with regional Civil Rights personnel to carry out compliance with and enforcement of civil rights in accordance with regional policy and Chapter 14.

e. Final Inspections. Final inspections should be conducted in the presence of the sponsor and the contractor representatives, and the results recorded on FAA Form 5100-17, Final Inspection Report (RIS: 5100-4) (Appendix 14). The field office may waive final inspection if there is full assurance that the work has been completed totally and satisfactorily. The rationale supporting such a waiver shall be fully documented.

f. Enforcement. Where an inspection, report, or other source reveals the sponsor is not providing satisfactory supervision and inspection of the construction, the sponsor will be immediately advised that adequate supervision is required under the terms of the grant agreement. Further, when any other discrepancy in civil rights, labor requirements, technical or engineering specification becomes evident, the region shall notify the sponsor and take follow-up action as necessary. If these actions fail to obtain satisfactory results, the sponsor will be advised that project payments will be suspended or other appropriate action taken until adequate supervision and inspection is provided to assure construction in accordance with approved plans and specifications. (See paragraph 1305.)

1222. CHANGE ORDERS AND SUPPLEMENTAL AGREEMENTS. Most contracts will incorporate AC 150/5370-10, Standards for Specifying Construction of Airports, as part of the standards and specifications. This AC addresses both change orders and supplemental agreements. In contracts not incorporating the AC, procedures for change orders and supplemental agreements should be followed which are as close as feasible to those in the AC.

a. Change Orders. A change order is a written order by the sponsor to the contractor, given pursuant to a recognized right or rights reserved in the contract, which makes a change in the design, drawings, or specifications of the contract within the general scope. No new wage rates decision will be required to cover the work involved in the change order. Any change which exceeds an increase or decrease of 25% of the estimated cost of the contract or of a major item (as defined in the AC) must normally be accomplished through a supplemental agreement.

b. Supplemental Agreements. A supplemental agreement covers work which is not within the general scope of the existing contract and which the contractor is not obligated to perform under the terms of the contract or is work which exceeds the 25% limitation covered in a. above. Thus, a supplemental agreement is a separate contract and requires execution by both parties with the same formality as any other contract. A new wage rate decision will be required for each supplemental agreement involving more than $2,000 unless it involves work under a project for which a wage determination decision was issued and such decision has not expired at the time of award of the supplemental agreement.

c. FAA Approval. The sponsor must get prior FAA approval for any change orders and supplemental agreements which will result in a grant amendment. In other cases and in emergency situations, the region may choose to establish procedures and levels of changes in cost and scope below which the sponsor need not obtain prior approval. The field office must ensure that the sponsor understands what these procedures and levels are. The sponsor should also be made aware of the statutory limitation on the increase in grant amount.

d. Eliminating Items of Work. A change order is used to eliminate items of work from the plans and specifications of a construction contract. If the item to be eliminated is of such magnitude as to change the scope of the project as described in the grant agreement, there must be a formal amendment of the grant agreement prior to issuance of the change order.

1223.-1229. RESERVED.

SECTION 4. SPONSOR'S FORCE ACCOUNT

1230. GENERAL.

a. Force Account. Force account construction work is construction that is accomplished through the use of material, equipment, labor, and supervision provided by the sponsor or by another public agency pursuant to an agreement with the sponsor.

b. Force Account Standards. A project, or any part of a project, accomplished by force account must meet the same engineering and construction standards that are required for contract construction (see paragraph 904). The FAA will apply the same requirements in review of plans and specifications as in conducting construction inspections. Construction reporting standards in paragraph 1220 shall also apply, as appropriate. The sponsor of force account construction must keep records on costs of materials, hourly operation of equipment, payrolls, and all other costs to avoid disallowance of costs that cannot be verified in an audit.

1231. JUSTIFICATION AND APPROVAL. Generally, construction should be accomplished through the competitive bidding process. Therefore, a sponsor anticipating construction using force account must submit a written justification for approval by the field office early in the grant process, preferably in the preapplication stage. The field office may wish to withhold approval of force account construction until after review of the final plans and specifications. The sponsor's proposal to use force account rather than contract construction must be fully documented and should contain as a minimum:

a. Justification for doing the work by force account rather than by contract;

b. Estimate of costs with details as to wage rates, nonsalary expenses, indirect costs, and comparison of costs between the sponsor's force account construction and contract construction;

c. Information on sponsor's resources (labor, material, equipment, and financing) and workload as they affect capacity to do the work, date by which the work will be complete, or dates within which the work will take place;

d. Adequate plans and specifications showing the nature and extent of the work to be performed using force account.

e. The sponsor must clearly show that the benefits of using force account override the Federal policy of competitive bidding.

1232. SPONSOR FUNDS. Enough funds must be available to the sponsor to carry payrolls and any necessary purchases of materials and rental equipment for the first portion of construction or until the first partial grant payment is received. The total amount of the sponsor's share may also consist of rental value of equipment, cost of materials in stock, and the value of labor which will be used on the project, as well as cash.

1233. COST ALLOWABILITY.

a. Records. To ensure the allowability of cost, the sponsor must keep accurate records of the hours sponsor equipment and personnel are employed on the project. Such records should include time sheets reflecting a job or account number chargeable to the project and payroll records certified by a supervisor.

b. Equipment. Equipment rental rates applicable to the construction on force account development vary widely. Therefore, to facilitate a uniform method for evaluating these rates, the regions may use the District Offices of the United States Army Corps of Engineers "Construction Equipment Ownership and Operating Expense Schedule" (EP-1110-1-8) or the Associated General Contractors of America (AGCA) "Contractors Equipment Cost Guide," to evaluate the sponsor's rate. The purchase price of equipment bought by the sponsor for use on a force account project is not allowable except to the extent that its amortization is included in the calculation of rental and operating rates.

c. Supplies and Materials. Any procurement of supplies and materials carried out for the purposes of the force account project must be in accordance with the procurement standards in chapter 8 to the extent possible.

d. Personnel. Cost of labor and supervision shall be in accordance with state and local standards.

1234. PERFORMANCE OF CONSTRUCTION.

a. Insurance. Sponsors are not required to carry any type of insurance unless mandated by local or state law. Sponsors should be advised that it is their responsibility to comply with state and local insurance requirements. (See paragraph 311i).

b. Project Changes. The sponsor must get prior FAA approval for any changes which will result in a grant amendment. Where a change in construction is contemplated which is substantial in scope or design, or is a change in either the plans or specifications, the equivalent of a "change order" shall be issued. This will be written instructions from the sponsor or its authorized representative to the engineer in charge of supervision and inspection of construction.

c. FAA Inspections. The procedures for FAA periodic and final inspections of the construction work done by sponsor's force account are similar to those procedures in paragraph 1221 for construction by contract.

1235.-1299. RESERVED.

CHAPTER 13. PROJECT PAYMENT, CLOSEOUT, AND AUDITING
SECTION 1. PROJECT PAYMENT

1300. GENERAL. Grant payment may be made to sponsors by letter of credit, electronic funds transfer, or Treasury check. The letter of credit will be used unless the sponsor is ineligible or specifically requests payment by Treasury check or electronic funds transfer. Airports field office may require documentation from the sponsor to support any costs claimed. Regions should encourage sponsors to use letter of credit to reduce paperwork.

1301. LETTER OF CREDIT.

a. General. A letter of credit is an instrument certified by the FAA which authorizes the sponsor to draw funds when needed from the Treasury for payment directly to the sponsor's bank. Procedures for using the letter of credit method of payment are contained in Order 2700.33, Letter of Credit - Treasury Financial Communications System (TFCS). The Regional Accounting Office should be contacted for advice on these matters. The letter of credit method of payment is to be used when all of the following conditions exist:

(1) When there is or will be a continuing relationship between a sponsor and the FAA for at least a 12-month period and the total amount of grant payments to be made within that period is $120,000 or more;

(2) When the sponsor has established or demonstrated the willingness and ability to implement procedures that will minimize the time elapsing between the transfer of funds and their disbursement; and

(3) When the sponsor's financial management system meets the standards for fund control and accountability prescribed in the common rule on grant management, 49 CFR Part 18.

b. Project Tracking. It is recognized that sponsors with letters of credit will no longer be submitting SF-270 and SF-271 (formerly FAA Forms 5100-61 and 5100-60) which contain project progress information as well as fiscal information. Therefore, field offices must rely on the quarterly performance reports, construction progress reports, and special reports, as needed, provided in paragraph 1220 of this Order for project tracking. Progress may then be correlated with the letter of credit drawdown request, TFS-5805, Request for Funds, a copy of which is sent to the field office by the sponsor.

c. Report of Federal Cash Transaction, SF-272 (Formerly FAA Form 5100-62). The sponsor must submit SF-272 within 15 working days following the end of each fiscal year quarter to the field office who shall furnish one copy to the accounting office.

d. Special Condition. The special condition for letter of credit in Appendix 9 will be included in all grants where letter of credit is to be used as the method of payment.

1302. PAYMENT BY TREASURY CHECK OR ELECTRONIC FUNDS TRANSFER - GENERAL. Payment by Treasury check or electronic funds transfer is the method to be used when the sponsor does not meet the letter of credit requirements. Payment of costs claimed by electronic funds transfer is processed the same as a payment by Treasury check, except that the sponsor receives the funds by a fund transfer to its bank rather than by receiving a paper check. Payments should be made on a reimbursable basis for actual work completed, material delivered to site, or land acquired. These requests

for reimbursement should not be more frequently than monthly. A sponsor shall not be reimbursed for amounts that are to be withheld from contractors to ensure satisfactory completion of the work. These amounts will be paid when the sponsor releases these funds to the contractor.

1303. PAYMENT BY TREASURY CHECK OR ELECTRONIC FUNDS TRANSFER-FORMS.

a. Request for Advance or Reimbursement, SF-270 (Formerly FAA 5100-61). This form is prepared by the sponsor to request progress or final payment for nonconstruction projects. It may be used for construction programs if the region feels that the form provides sufficient information.

b. The Outlay Report and Request for Reimbursement, SF-271 (Formerly FAA Form 5100-60). This form is prepared by the sponsor to request progress or final payment for construction projects or any other project for which the region feels a need for more detailed information than provided on SF-270.

c. Distribution of Forms. The sponsor shall submit the original plus two copies of the necessary forms. After approval by the field office, the original and a copy shall be forwarded to the regional accounting office.

1304. PAYMENT BY TREASURY CHECK OR ELECTRONIC FUNDS TRANSFER - APPROVAL.

a. Before approving a payment request, the field office should establish that:

(1) The cost is reasonable and allowable;

(2) The payment request does not exceed the outstanding balance in the grant;

(3) The work covered by the payment is in line with the project schedule;

(4) In cases involving land, the sponsor has submitted evidence satisfactory to the FAA for good title to land acquired or to be acquired.

b. Where the field office determines that the amount requested is not justified, a lesser amount should be approved and the sponsor notified of the adjustment and the reason for the adjustment. The field office may not withhold payment for proper charges for more than 180 days unless the sponsor has failed to comply with grant conditions and has been notified and given an opportunity for a hearing or is indebted to the U.S. Government and collection of the indebtedness will not significantly impair accomplishment of the objectives of the grant program. All such action will be coordinated with the regional accounting office.

c. Field office will indicate approval of the payment request by affixing and signing the following on the payment request form:

> "I find $ of the amount requested for reimbursement to be an allowable project cost based on the representations and certifications of the sponsor as contained in the payment request. I further find this cost has not previously been reimbursed, and hereby approve payment of such amount."

Name

Date

d. Before forwarding the request for payment to the regional accounting office, the field office should ensure the sponsor's name, project number, partial payment request number, and the DOT contract number are included on the form.

e. If the request is for final payment associated with project closeout (even though there has been a 100% progress payment distribution), see section 2 of this Chapter.

1305. WITHHOLDING PAYMENT. Payment may be withheld by the field office pending the determination of reasonableness, allowability, and necessity of the claimed costs or for noncompliance with a grant condition. Section 519(b) of the AAIA, as amended, contains certain requirements that must be followed when withholding payments for noncompliance with grant conditions. The Office of Chief Counsel is developing the procedures to follow when withholding payments. Thus, if any determination of noncompliance is to be made that requires withholding of payment, contact regional Counsel for specific procedures. If it is also necessary to suspend the letter of credit, see Order 2700.33, paragraph 19. If the grant is suspended or terminated, see paragraph 1140. Where there is a dispute between the sponsor and the contractor, see paragraph 1314.

1306.-1309. RESERVED.

SECTION 2. GRANT CLOSEOUT PROCEDURES

1310. GENERAL. The closeout of a grant is the process by which the FAA and the sponsor perform the necessary final administrative actions to complete all requirements of the grant agreement. It is important that all parties involved fulfill these requirements promptly so that unnecessary delays in closing a grant can be avoided. The closeout process will usually require an examination of three areas - project work completion, administrative requirements, and financial requirements - to ensure that the required steps have been taken or conditions met.

1311. AUDIT RELATIONSHIP TO CLOSEOUT. The single audit required by OMB Circular A-128 will not usually coincide with the project accomplishment period; nor will a single audit likely to contain sufficient information on the project to show all grant requirements have been met. If the project manager feels it necessary to more closely audit the project, see paragraph 1320. Otherwise, field offices may close out projects before the audit cycle is completed. The project may be reopened later to resolve subsequent audit findings.

1312. WORK COMPLETION REQUIREMENTS FOR CLOSEOUT. Conditions to be met before work completion can be determined will vary according to the type of work in the grant, i.e., planning, land
acquisition, equipment acquisition, or construction.

a. Planning. The conditions are met when the sponsor has completed the work elements identified in the program narrative and the FAA has reviewed and accepted the final report. Acceptance does not require that the FAA agree with the conclusions or recommendations in the plan. It should be kept in mind that the plan has been developed in part for the purpose of providing local and state governments with a planning tool to assist them in making airport development decisions. When significant differences of opinion exists, a letter should be sent to the sponsor which outlines the FAA position. See paragraph 4--.

b. Land Acquisition. Conditions are met when the sponsor obtains satisfactory property interest in all parcels included in the grant description, has submitted adequate title evidence or appropriate certification for all the parcels, and the field office has accepted such evidence and is satisfied that the Relocation Act requirements have been met. See paragraph 613.

c. Equipment Acquisition. Conditions are met when the equipment is delivered, installed, and tested in accordance with approved plans and specifications. Final inspection may be made either by the FAA or the sponsor at the region's option.

d. Construction. Conditions are met when all work items in the grant description have been completed in accordance with the approved plans and specifications and the final inspection completed as stated in paragraph 1221e. Correction of noted discrepancies (punch list items) should be completed, or the field office should have assurance that arrangements are made for their completion. Sponsor certification may be accepted or required for both work items and punch list completion.

e. Combination of the Above. Field offices may close out portions of projects which involve combinations of the preceding four categories when each specific portion meets its requirements for closeout.

1313. ADMINISTRATIVE REQUIREMENTS FOR CLOSEOUT. Sponsors shall be required to submit the following items as part of the administrative closeout of the project:

a. As-Built Plans. "As-built" plans for airport development projects involving construction;

b. Exhibit A, Property Map. Revised "Exhibit A" if any changes were made from the one submitted with the project application;

c. Property Accountability. An inventory of all equipment with a current per unit fair market value in excess of $5000 acquired with Federal funds and used to carry out the grant. Equipment no longer needed for airport purposes may be sold or retained by the sponsor. The Federal share of the current fair market value shall be deducted from the grant amount or reimbursed to FAA.

1314. FINANCIAL REQUIREMENTS FOR CLOSEOUT.

a. Final Financial Report. The sponsor shall be required to submit a final financial report with the FAA in accordance with 49 CFR 18.41 and 18.50. This report is required even if the sponsor has already received payments equal to the maximum obligation of the United States stated in the grant agreement. For construction and nonconstruction projects, the final report shall be made on the form the sponsor normally uses to request payment (SF-270 or SF-271) in cases of reimbursement by Treasury check, or on SF-272 if the letter of credit has been used. The final financial report may also serve as the request for final payment when 100% progress payment has not been made or when an adjustment to the 100% progress payment is required.

b. Form Preparation. On the appropriate line of these forms or in the "Remarks" section, if the line does not exist, the following information must be included, if applicable:

(1) Identification of Any Interest Earned on Federal Funds. Except for sponsors that are state agencies or Indian tribes, all such interest must be returned to the Federal Government.

(2) Identification of Credit for Nonexpendable Personal Property. See paragraph 561e and 1313c.

(3) Identification of Any Disputed Costs. Where there is a dispute between the contractor and the sponsor as to the amount of compensation due the contractor which may have to be settled by litigation, the contractor should furnish the sponsor an estimate of the total amount allegedly due from the sponsor. The sponsor should only recognize the undisputed portion of the contractor's claim and include that amount in the final financial report. However, in the "Remarks" section, the sponsor

should point out that there is a certain disputed amount which the contractor claims and which may be the subject of litigation.

c. Excess Payments. If the final financial report indicates that payments have been made which exceed the Federal share of the estimated allowable costs or the sponsor has received interest on Federal funds to which it is not entitled, this amount constitutes a debt to the Federal government. The accounting office should be informed of the amount and asked to send a notice to the sponsor that the debt should be paid within 30 days or a charge for interest and penalties in accordance with the Federal Claims Collection Standards will be assessed.

d. Fiscal Adjustments. It may be necessary to make upward or downward adjustments as a result of an audit, grant amendments, or resolution of disputed costs.

1315. FINAL PROJECT REPORT.

a. Preparation. After the requirements of paragraphs 1312, 1313, and 1314 have been met, a final project review shall be made resulting in a final project report. The report shall contain information deemed necessary for any subsequent examination or evaluation of the project.

b. Approval of Final Project Report. The report will normally be prepared by the FAA project manager and be reviewed and approved by the regional Airports Division Manager. This authority may be delegated but must remain at one level higher than the project manager in the chain of command. This constitutes a routine element of program checks and balances as required by OMB Circular A-123.

1316. FINANCIAL SETTLEMENT. Upon approval of the final project report, payment for the allowable costs up to the maximum obligation of the United States may be made. Financial settlement may also involve recovering any overpayments or interest (see paragraph 1314c.). The sponsor shall be notified in writing with a copy to the project file when the final financial settlement is being made that the grant is considered to be closed out. Any differences in the amount of funds requested by the sponsor and the amounts paid out should be explained. If the amount requested in the sponsor's final financial report exceeds the balance of the maximum U.S. obligation remaining in the grant, the excess must either be denied or a grant amendment made in accordance with Section 4 of Chapter 11.

1317. REPORTS TO FAA HEADQUARTERS. One copy of the regional Airports Division final project report is required by APP-520 when EDA or Appalachian Regional Commission funds are included in the project, or on an “as requested basis” for other projects.

1318. RECLAIM FOR SUSPENDED COSTS AFTER FINAL SETTLEMENT. There will be instances where final payment will be made to the sponsor with certain project costs being suspended for lack of
substantiating evidence or for other reasons. Such costs may be reclaimed by the sponsor after final payment provided the sponsor has submitted evidence which is satisfactory to justify a determination that the costs are reasonable and necessary to the project. However, if the sponsor does not file for such reclaim within 90 days after final payment, the project may be closed out.

1319. RESERVED.

SECTION 3. AUDITS

1320. GENERAL. OMB Circular A-128, Audits of State and Local Governments, implements the Single Audit Act of 1984, P.L. 98-502, and establishes audit requirements for State and local governments that receive Federal aid. It requires that any State or local government that receives $100,000 or more a year in Federal funds shall have an audit made in accordance with OMB Circular A-128. The audit shall

be made by an independent auditor and cover the entire financial and compliance operations of that government body. Audits will be conducted annually unless State or local law requires biennial audits. The single audit concept was established to:

a. Ensure that all Federal agencies rely on a single audit;

b. Provide uniform requirements for audits of Federal assistance programs; and

c. Improve the financial management of Federal assistance programs.

Since most sponsors receive grants from more than one Federal agency, OMB assigns a cognizant agency at the department level for all States and some localities to carry out the responsibilities described in paragraphs 1322 and 1325. If a sponsor has not been assigned a cognizant agency, the Office of Acquisition and Grant Management, M-60, must be contacted to obtain one. Assignment of cognizant administrative responsibility within the DOT is determined by M-60 in conjunction with the OIG and the modal administration involved. The FAA may be the responsible cognizant agency.

1321. AUDIT RESPONSIBILITIES - GENERAL. There are four parties involved with the A-128 process; the field office, the public sponsor, the sponsor's auditor, and the DOT OIG (if a modal administration in DOT is the cognizant agency). Paragraph 1326 contains guidelines for private sponsor audits.

1322. AUDIT RESPONSIBILITY - AIRPORTS FIELD OFFICE.

a. During the project formulation stage, the field office should determine whether the sponsor has been assigned a cognizant agency. Where the sponsor has not been assigned a cognizant Federal agency by OMB, sponsors shall be directed to contact the DOT Office of Acquisition and Grant Management, M-60. If DOT provides the most funds, assignment of cognizant administrative responsibilities will be determined by M-60 in conjunction with the OIG and the modal or operating administration. The assignment will be based on an operating administration's previous experience with a sponsor, and the amount of dollar support to the sponsor.

b. If FAA is assigned as cognizant agency, the field office shall:

(1) Ensure that audits are made and distributed in accordance with this section and that sponsors take corrective actions when audit reports are found by the OIG not to be in compliance with the requirements of Circular A-128;

(2) Refer findings that relate to a single Federal agency to that agency for resolution;

(3) Be the focal point for the resolution of audit findings that affect the programs of more than one Federal department or agency, seeking their views before entering negotiations, and obtaining their specific concurrences prior to final agreement.

(4) Be responsible for approving sponsor cost allocation plans and negotiating and executing indirect cost rate agreements, if required, with respect to all assistance programs. See paragraph 37.

c. If FAA is not the cognizant agency, the field office responsibility is limited to responding to the audit findings and recommendations and to cooperating with the cognizant agency.

1323. AUDIT RESPONSIBILITY - PUBLIC SPONSOR. The public sponsor is responsible for:

a. Ensuring it has a cognizant agency;

b. Selection of an Auditor. This can be a private firm selected in accordance with the provisions of 49 CFR 18.36 or an in-house auditor approved by the OIG;

c. Ensuring the audit is carried out in accordance with A-128;

d. Responding to audit findings and cooperation with the FAA in resolving any problems;

e. Keeping audit reports on file for three years from the date of their issuance;

f. Sending a copy of the audit to each Federal department or agency that provided Federal assistance funds to the sponsor;

g. Submitting one copy of the audit report within 30 days after issuance to a central clearinghouse located at the Census Bureau, Department of Commerce. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports. Audit reports should be sent to Bureau of the Census, Data Preparation Division, 1201 E. 10th Street, Jeffersonville, Indiana 47132, Attn: Single Audit Clearinghouse;

h. Submitting a cost allocation plan and an indirect cost rate proposal, if required.

1324. AUDIT RESPONSIBILITY - INDEPENDENT AUDITOR. The sponsor's independent auditor is responsible for:

a. Carrying out the audit in a professional and responsible manner and in accordance with the provisions of A-128 and OMB's compliance supplement for the AIP program.

b. Providing a copy of the audit to the cognizant agency and sufficient copies to the sponsor to allow for the sponsor's distribution. Where DOT or FAA is the cognizant agency, the copy shall go to the OIG;

c. Keeping working papers and reports for 3 years from the date of the audit report unless the cognizant agency requests in writing to extend the retention period.

1325. AUDIT RESPONSIBILITY - OIG. The OIG's responsibility is to:

a. Ensure that audits are in accordance with the requirements of OMB Circular A-128;

b. Provide technical advice and liaison to State and local governments and independent auditors;

c. Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations;

d. Inform other affected Federal organizations and appropriate Federal law enforcement officials of any reported illegal acts or irregularities;

e. Advise the sponsor of audits that have been found not to have met the requirements of OMB Circular A-128. The OIG shall also notify the cognizant Operating Administration of sponsor audit reports that do not meet the requirements of OMB Circular A-128;

f. Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits required by OMB Circular A-128, so that the additional audits build upon such audits;

g. Provide audits to support approval of cost allocation plans and indirect cost rates. These audits should be completed by the OIG within 30 days of the receipt of the audit request;

h. Perform or arrange for special or supplemental audits at the request of the field office.

1326. PRIVATE SPONSOR AUDIT. Since A-128 applies only to public sponsors, the FAA will require, if appropriate, that in a grant agreement with a private sponsor a project audit will be conducted and submitted to the field office. See Appendix 9 for the special condition on private sponsor audits which is to be included in appropriate grants. These audits should be sent to the OIG. Where the field office determines that project transactions are so basic that a full audit is unnecessary (e.g., purchase of equipment, a small lump sum contract on a third party planning contract, etc.) a cost review without audit may be made in lieu of the audit.

(2) Sanctions/Penalties. A sponsor must carry out such sanctions and penalties for violation of the EEO clause as may be imposed on contractors and subcontractors by the Department of Labor based on Part II, Subpart D of the Executive Order. If the sponsor fails or refuses to comply, the FAA may terminate, or suspend in whole or in part any contractual arrangement it may have with the sponsor, may refrain from extending any further assistance under any of its programs subject to the executive order until satisfactory assurance of future compliance has been received from the sponsor, or may refer the case to the Department of Justice for legal proceedings.

d. Other Areas of Discrimination.

(1) Employee Selection. Guidelines on employee selection are contained in 41 CFR Part 60-3.

(**2) Sex Discrimination**. Complete details on nondiscrimination requirements are contained in 41 CFR Part 60-20.

(3) Discrimination Because of Religion or National Origin. Guidelines are found in 41 CFR Part 60-50.

1425. REHABILITATION ACT OF 1973 (P.L. 93.112). Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

a. DOT Regulation 49 CFR Part 27. This regulation implements Section 504 and sets out detailed requirements for grantees under Federal financial assistance programs. The rule prohibits

employment discrimination and requires sponsors to make reasonable accommodations to the handicaps of otherwise qualified employees. In addition, sponsors are required to make their existing and future facilities and programs accessible to handicapped persons by providing specific equipment to accommodate them. Fixed terminal facilities which are required by the regulation and which are an integral part of the design of new terminal construction or incidental to major terminal renovation (including boarding devices) are eligible if they meet other eligibility criteria for terminal development (see paragraph 551). Specific equipment that is not part of the real property (telephones, teletypewriters, etc.) is not eligible under present legislation.

b. Responsibility of FAA. The field office is responsible for reviewing plans and specifications for compliance with Section 504 accessibility. The regional Civil Rights office is responsible for conducting investigation of complaints filed under Section 504.

c. Enforcement of 49 CFR Part 27. If informal resolution is not successful, the field office may be told to suspend, terminate, or refuse to grant in accordance with 49 CFR Part 27. See Chapter 11, Section 5.

1426.-1499. RESERVED.

CHAPTER 15. SPONSOR ASSURANCES AND CERTIFICATION
SECTION 1. ASSURANCES - AIRPORT SPONSORS

1500. GENERAL. This section describes the assurances airport sponsors must make as a condition of approval of a grant application. The assurances are submitted by the sponsor as part of the application for Federal assistance and are incorporated by reference into the grant agreement. This set of assurances is to be used by airport sponsors in their applications requesting funds for airport development, airport planning (except airport system planning), and noise compatibility projects. All assurances are contained in Appendix 1.

1501. ASSURANCE 1, GENERAL FEDERAL REQUIREMENTS. This assurance lists the various laws, executive orders, regulations, and OMB circulars to which sponsors become subject upon acceptance of a
Federal grant under the AAIA. Field offices should consult AC 150/5100-16 for further information on Assurance 1.

1502. ASSURANCE 2, RESPONSIBILITY AND AUTHORITY OF THE SPONSOR. This assurance satisfies the requirement of Section 509(b)(1)(D) of the AAIA regarding the legal authority of the sponsor to engage in a proposed AIP project. Chapter 2 details the requirements sponsors must meet. Ordinarily, field offices need be concerned with this assurance only with sponsors receiving their first grant.

1503. ASSURANCE 3, SPONSOR FUND AVAILABILITY. This assurance satisfies the requirement of Section 509(b)(1)(B) of the AAIA and is related to Section 511(a)(3) of the Act regarding operation and maintenance of airport facilities.

1504. ASSURANCE 4, GOOD TITLE. This assurance satisfies the requirement of Section 509(b)(2) of the AAIA. It does not apply to planning projects. Refer to Chapter 6 for a discussion of adequate property interest.

1505. ASSURANCE 5, PRESERVING RIGHTS AND POWERS. In addition to obligating the sponsor to preserve its rights and powers to carry out all grant agreement requirements, this assurance also places

certain obligations on the sponsor regarding land upon which Federal funds have been spent, the implementation of noise program projects, the continued operation as public-use airports of airports owned by private sponsors, and the operation and maintenance of airports managed by agencies other than the sponsor.

1506. ASSURANCE 6, CONSISTENCY WITH LOCAL PLANS. This assurance satisfies the requirement of Section 509(b)(1)(A) of the AAIA. The field office will also make a finding of consistency or inconsistency with local plans based upon the results of the intergovernmental review process. (See Paragraph 906.)

1507. ASSURANCE 7, CONSIDERATION OF LOCAL INTEREST. This assurance satisfies the requirement of Section 509(b)(4) of the AAIA. With this assurance, the sponsor certifies that fair consideration has been given to the interests of local communities. This does not require the sponsor to receive concurrence from all local communities, only that during project development their interests have been fairly considered in reaching decisions relative to the project. No further written statements are required of the sponsor on this subject unless the field office deems it necessary. This assurance does not apply to planning projects.

1508. ASSURANCE 8, CONSULTATION WITH USERS. This assurance satisfies the requirement of Section 511(c) of the AAIA. Affected parties using the airport at which the project is proposed should be afforded a reasonable opportunity to provide input to proposals for airport development. Such consultation should take place prior to submittal of the project application to the FAA. The consultation should encompass all project considerations that bear on the decision to proceed and which impact users' charges or operations. As a minimum, the consultation should cover the general nature of the development proposed, its estimated cost, and its estimated commencement and completion dates. The scope of the consultation will vary from airport to airport depending upon operational requirements and the relationship between the users and the sponsor including financial relationship. This assurance obligates the sponsor to afford users a reasonable opportunity to provide input prior to final decisions being made on proposed development; it does not require users to provide input nor does it require sponsors to abandon a proposal if users nonconcur in it. Consultation should take place with a representative designated by each user to speak for it in such matters. In the absence of such designation, the sponsor should consult with the individual empowered by the user to execute leases, licenses, permits, or other documents evidencing the user's rights on the airport. The sponsor's records pertaining to an airport development project should include, as applicable, documentation evidencing consultation with parties using the airport. This assurance does not apply to planning projects.

1509. ASSURANCE 9, PUBLIC HEARINGS. This assurance satisfies the requirement of Section 509(b)(6) of the AAIA. In addition to affording the opportunity for a public hearing in projects involving the location of an airport, an airport runway, or a major runway extension, there may be other instances when either offering the opportunity of a public hearing or holding a public hearing itself may be appropriate. Section 1506.6 of the CEQ regulations sets forth procedures for public involvement in projects affecting the environment. Order 5050.4 describes environmental requirements in detail and should be consulted regarding public hearing requirements. This assurance does not apply to planning projects.

1510. ASSURANCE 10, AIR AND WATER QUALITY STANDARDS. This assurance satisfies the requirement of Section 509(b)(7)(A) of the AAIA. The required certification should accompany the application for Federal assistance. In addition, 49 CFR 18.36 requires that provisions concerning air and water quality standards be contained in certain contracts and subcontracts. (See Paragraph 822.) Section 509(b)(7)(B) requires that the Secretary condition approval of any grant application for a project involving airport location, a major runway extension, or runway location on compliance during construction and operation with applicable air and water quality standards. It does not apply to planning projects. See Appendix 9 for the special condition.

1511. ASSURANCE 11, LOCAL APPROVAL. This assurance satisfies the requirement of Section 31 of the Airport and Airway Development Act of 1970 (AADA). (Section 31 was added to the AADA by Section 206 of the Aviation Safety and Noise Abatement Act of 1979. Section 31 was the only section of the AADA not repealed by Section 523(a) of the AAIA and is therefore still in effect). This assurance does not apply to planning projects.

1512. ASSURANCE 12, TERMINAL DEVELOPMENT PREREQUISITES. This assurance satisfies the requirement of Section 513(b)(1) of the AAIA. It applies only to projects funded under Section 513(b).

1513. ASSURANCE 13, ACCOUNTING SYSTEM, AUDIT AND RECORDKEEPING REQUIREMENTS. This assurance satisfies the requirements of Sections 511(a)(8) and 518 of the AAIA. (See Chapter 13 and FAA Order 5100.20.)

1514. ASSURANCE 14, MINIMUM WAGE RATES. This assurance satisfies the requirement of Section 515(b) of the AAIA. It does not apply to planning projects. (See paragraphs 822 and 1400 and AC 150/5100-6.)

1515. ASSURANCE 15, VETERAN'S PREFERENCE. This assurance satisfies the requirement of Section 515(c) of the AAIA. It does not apply to planning projects. (See paragraph 822 and AC 150/5100-6.)

1516. ASSURANCE 16, CONFORMITY TO PLANS AND SPECIFICATIONS. This assurance (together with Assurance 17) satisfies the requirement of Sections 509(a) and 515(a) of the AAIA. It does not apply to planning projects. (See paragraphs 905, 1003, and 1111.)

1517. ASSURANCE 17, CONSTRUCTION INSPECTION AND APPROVAL. This assurance (together with Assurance 16) satisfies the requirement of Section 515(a) of the AAIA. (See paragraph 1220.) Sponsors should be made aware of AC 150/5300.9 which sets forth the standards for construction inspections. It does not apply to planning projects.

1518. ASSURANCE 18, PLANNING PROJECTS. The requirements contained in this assurance are derived from the conditions that were part of the Planning Grant Agreement used in the Planning Grant Program in effect under the Airport and Airway Development Act. The conditions themselves were developed by FAA and tailored to bind sponsors of planning projects to the same type of obligations, where appropriate, that bind sponsors of airport development projects. (See Chapter 4.)

1519. ASSURANCE 19, OPERATION AND MAINTENANCE. This assurance satisfies the requirement of Section 511(a)(3) of the AAIA It obligates a sponsor to operate and maintain certain noise project items and requires FAA approval for temporary airport closures. It also obviates the need for a lighting agreement. This assurance does not apply to planning projects.

1520. ASSURANCE 20, HAZARD REMOVAL AND MITIGATION. This assurance satisfies the requirement of Section 511(a)(4) of the AAIA. In addition, when funds are allocated for developing new runways, runway safety areas, or to improve existing runways, the sponsor must own, acquire, or agree to acquire adequate property interest. It does not apply to planning projects.

1521. ASSURANCE 21, COMPATIBLE LAND USE. This assurance satisfies the requirement of Section 511(a)(5) of the AAIA. Sponsors are also required to describe in the application what actions have been taken to ensure compatible use of land adjacent to or in the vicinity of the airport. (See paragraph 1005.) This assurance does not apply to planning projects.

1522. ASSURANCE 22, ECONOMIC NONDISCRIMINATION. This assurance satisfies the requirement of Section 511(a)(1) of the AAIA. It does not apply to planning projects.

1523. ASSURANCE 23, EXCLUSIVE RIGHTS. This assurance satisfies the requirement of Section 511(a)(2) of the AAIA. It does not apply to planning projects.

1524. ASSURANCE 24, FEE AND RENTAL STRUCTURE. This assurance satisfies the requirement of Section 511(a)(9) of the AAIA. It does not apply to planning projects.

1525. ASSURANCE 25, AIRPORT REVENUE. This assurance satisfies the requirement of Section 511(a)(12) of the AAIA. This assurance does not apply to planning projects.

1526. ASSURANCE 26, REPORTS AND INSPECTIONS. This assurance satisfies the requirement of Sections 511(a)(10) and 511(a)(11) of the AAIA. It does not apply to planning projects.

1527. ASSURANCE 27, USE OF GOVERNMENT AIRCRAFT. This assurance satisfies the requirement of Section 511(a)(6) of the AAIA. It does not apply to planning projects.

1528. ASSURANCE 28, LAND FOR FEDERAL FACILITIES. This assurance satisfies the requirement of Section 511(a)(7) of the AAIA. As written, it obviates the need for the previous special condition regarding cost-free area and space which was required to be in the grant offer under ADAP. It does not apply to planning projects.

1529. ASSURANCE 29, AIRPORT LAYOUT PLAN. This assurance satisfies the requirement of Section 511(a)(15) of the AAIA. Each project for airport development must provide for updating the airport layout plan unless otherwise authorized by the Administrator. By this assurance, the sponsor agrees to keep the ALP current at all times. This assurance does not apply to planning projects. (See paragraph 300.)

1530. ASSURANCE 30, CIVIL RIGHTS. This assurance satisfies the requirement of Section 520 of the AAIA. (See Chapter 14 and AC 150/5100-15.)

1531. ASSURANCE 31, DISPOSAL OF LAND. This assurance satisfies the requirements of Sections 511(a)(13) and (14) of the AAIA. Acceptance of a grant with this assurance obligates the sponsor to the conditions of this assurance for all land previously acquired under a grant. It does not apply to planning projects.

1532. ASSURANCE 32, ENGINEERING AND DESIGN SERVICES. This assurance satisfies the requirement of Section 511(a)(16) of the AAIA. For services specified in this assurance, the sponsor will not use price as a selection factor. (See AC 150/5100-14.)

1533. ASSURANCE 33, FOREIGN MARKET RESTRICTIONS. This assurance satisfies the requirement of Section 533 of the AAIA. (See paragraph 800f.)

1534. ASSURANCE 34, POLICIES, STANDARDS, AND SPECIFICATIONS. This assurance satisfies the requirement of Section 509(a)(1) of the AAIA. All airport development grants issued on or after March 1, 1986, shall contain this assurance. It is applicable only to the specific project being funded. Where States have established and the FAA has approved airport development standards at nonprimary, public-use airports (other than standards for safety of approaches) the applicable State standards shall be used in lieu of standards contained in the identified advisory circulars. After October 1, 1989, this assurance was changed to delete the actual list of AC's from the assurance itself, which are now listed in the "Current FAA Advisory Circulars for AIP Projects." This list, which is updated as changes are made to the appropriate AC's, is referenced in the assurance and incorporated into the grant

agreement. Any modification to the technical standards of the AC's identified must be with the approval of the FAA and must provide an acceptable level of safety, economy, durability, and workmanship. This assurance does not apply to planning projects.

1535. ASSURANCE 35, RELOCATION AND REAL PROPERTY ACQUISITION. This assurance satisfies the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and 49 CFR Part 24. By inclusion in the grant assurances, the FAA Form 5100-40 certification is no longer required of the sponsor.

1536. ASSURANCE 36, DRUG-FREE WORKPLACE. This assurance satisfies the requirements of the Drug-Free Workplace Act of 1988 (Pub. L.100-690) and 49 CFR Party 29. By inclusion in the grant assurances, it obviates the need for the separate certification required of sponsors.

1537.-1539. RESERVED.

SECTION 2. ASSURANCES - PLANNING AGENCY SPONSORS.

1540. GENERAL. This section describes the assurances planning agency sponsors must make as a condition of approval of a grant application for system planning. The assurances are submitted as part of the application for Federal assistance and are incorporated by reference into the grant agreement. This set of assurances is to be used by planning agencies in their applications requesting funds for integrated airport system planning. All assurances are contained in Appendix 1.

1541. ASSURANCE 1, GENERAL FEDERAL REQUIREMENTS. This assurance lists the various laws, executive orders, regulations, and OMB circulars to which sponsors become subject upon acceptance of a
Federal grant under the AAIA. Field offices should consult AC 150/5100-16 for further information on Assurance 1.

1542. ASSURANCE 2, RESPONSIBILITY AND AUTHORITY OF THE SPONSOR. This assurance satisfies the requirement of Section 509(b)(1)(D) of the AAIA regarding the legal authority of the sponsor to engage in a proposed AIP project. Chapter 2 details the requirements sponsors must meet. Ordinarily, field offices need be concerned with this assurance only with sponsors receiving their first grant.

1543. ASSURANCE 3, SPONSOR FUND AVAILABILITY. This assurance satisfies the requirement of Section 509(b)(1)(B) of the AAIA.

1544. ASSURANCE 4, PRESERVING RIGHTS AND POWERS. This assurances places certain obligations on the sponsor to preserve its rights and powers to carry out all grant agreement requirements.

1545. ASSURANCE 5, CONSISTENCY WITH LOCAL PLANS. This assurance satisfies the requirement of Section 509(b)(1)(A) of the AAIA. The field office will also make a finding of consistency or inconsistency with local plans based upon the results of the intergovernmental review process. (See paragraph 906.)

1546. ASSURANCE 6, ACCOUNTING SYSTEM, AUDIT AND RECORDKEEPING REQUIREMENTS. This assurance satisfies the requirements of Sections 511(a)(8) and 518 of the AAIA. (See Chapter 13 and Order 5100.20.)

1547. ASSURANCE 7, PLANNING PROJECTS. The requirements contained in this assurance are derived from the conditions that were part of the Planning Grant Agreement used in the Planning Grant Program in effect under the Airport and Airway Development Act. The conditions themselves were

developed by FAA and tailored to bind sponsors of planning projects to the same type of obligations, where appropriate, that bind sponsors of airport development projects. (See Chapter 4.)

1548. ASSURANCE 8, REPORTS AND INSPECTIONS. This assurance satisfies the requirement of Sections 511(a)(10) and 511(a)(11) of the AAIA.

1549. ASSURANCE 9, CIVIL RIGHTS. This assurance satisfies the requirement of Section 520 of the AAIA. (See Chapter 14 and AC 150/5100-15.)

1550. ASSURANCE 10, ENGINEERING AND DESIGN SERVICES. This assurance satisfies the requirement of Section 511(a)(16) of the AAIA. For services specified in this assurance, the sponsor will not use price as a selection factor. (See AC 150/5100-14.)

1551. ASSURANCE 11, FOREIGN MARKET RESTRICTIONS. This assurance satisfies the requirement of Section 533 of the AAIA. (See paragraph 800f.)

1552. ASSURANCE 12, POLICIES, STANDARDS, AND SPECIFICATIONS. This assurance satisfies the requirement of Section 509(a)(1) of the AAIA.

1553. ASSURANCE 13, DRUG-FREE WORKPLACE. This assurance satisfies the requirements of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690) and 49 CFR Party 29. By inclusion in the grant assurances, it obviates the need for the separate certification required of sponsors.

1554.-1559. RESERVED.

SECTION 3. ASSURANCES - NOISE COMPATIBILITY PROJECTS UNDERTAKEN BY NONAIRPORT SPONSORS

1560. GENERAL. This section describes the assurances that public agencies not owning airports (i.e., nonairport sponsors) must make as a condition of approval of a grant application for noise compatibility program projects. Section 104(c)(1) of ASNA states that all of the provisions applicable to AIP grants shall be applicable to any grants made under ASNA. Therefore, assurances that airport and planning agency sponsors must make pertaining to DBE, Davis-Bacon, NEPA, E.O. 12372, etc., also apply to noise compatibility program projects undertaken by nonairport sponsors (AGC-100 opinion of August 24, 1983). These assurances are submitted as part of the application for Federal assistance and are incorporated by reference into the grant agreement. All assurances are contained in Appendix 1.

1561. ASSURANCE 1, GENERAL FEDERAL REQUIREMENTS. This assurance lists the various laws, executive orders, regulations, and OMB circulars to which nonairport sponsors become subject upon acceptance of a Federal grant under the AAIA. The information contained in paragraph 35 on mandatory standards and paragraph 34 on OMB A-102 (49 CFR Part 18) requirements is also applicable to nonairport sponsors.

1562. ASSURANCE 2, RESPONSIBILITY AND AUTHORITY OF THE SPONSOR. This assurance satisfies the requirement of Section 509(b)(1)(D) of the AAIA regarding the legal authority of the sponsor to engage in a proposed AIP project. Chapter 2 details the requirements sponsors must meet. Ordinarily, field offices need be concerned with this assurance only with sponsors receiving their first grant.

1563. ASSURANCE 3, SPONSOR FUND AVAILABILITY. This assurance satisfies the requirement of Section 509(b)(1)(B) of the AAIA and is related to Section 511(a)(3) of the Act as it applies to the operation and maintenance by nonairport sponsors of federally funded items that they will own or control.

1564. ASSURANCE 4, GOOD TITLE. This assurance satisfies the requirement of Section 509(b)(2) of the AAIA as it applies to the property of nonairport sponsors upon which noise compatibility projects are accomplished. Refer to Chapter 6 for a discussion of adequate property interest.

1565. ASSURANCE 5, PRESERVING RIGHTS AND POWERS. In addition to obligating the nonairport sponsor to preserve its rights and powers to carry out all grant agreement requirements, this assurance places obligations on the sponsor regarding land upon which Federal funds have been spent and regarding noise compatibility program projects carried out by (see paragraphs 706 and 707):

a. Another unit of local government,

b. On property owned by a unit of local government other than the sponsor, and

c. On privately owned property.

1566. ASSURANCE 6, CONSISTENCY WITH LOCAL PLANS. This assurance satisfies the requirement of Section 509(b)(1)(A) of the AAIA. The field office will also make a finding of consistency or inconsistency with local plans based upon the results of the intergovernmental review process. (See paragraph 906.)

1567. ASSURANCE 7, CONSIDERATION OF LOCAL INTEREST. This assurance satisfies the requirement of Section 509(b)(4) of the AAIA. With this assurance, the nonairport sponsor certifies that fair consideration has been given to the interests of local communities. This does not require the sponsor to receive concurrence from all local communities, only that during project development their interests have been fairly considered in reaching decisions relative to the project. No further written statements are required of the sponsor on this subject unless the field office deems it necessary.

1568. ASSURANCE 8, ACCOUNTING SYSTEM, AUDIT, AND RECORDKEEPING REQUIREMENTS. This assurance satisfies the requirements of Sections 511(a)(8) and 518 of the AAIA. (See Chapter 13 and Order 5100.20.)

1569. ASSURANCE 9, MINIMUM WAGE RATES. This assurance satisfies the requirement of Section 515(b) of the AAIA. (See paragraphs 822 and 1400, and AC 150/5100-6.)

1570. ASSURANCE 10, VETERAN'S PREFERENCE. This assurance satisfies the requirement of Section 515(c) of the AAIA. (See paragraph 822 and AC 150/5100-6.)

1571. ASSURANCE 11, CONFORMITY TO PLANS AND SPECIFICATIONS. This assurance (together with Assurance 12) satisfies the requirement of Section 515(a) of the AAIA. (See paragraphs 905, 1003, and 1111.)

1572. ASSURANCE 12, CONSTRUCTION INSPECTION AND APPROVAL. This assurance (together with Assurance 11) satisfies the requirement of Section 515(a) of the AAIA. (See paragraph 1220.) Sponsors should be made aware of AC 150/5300-9 which sets forth the standards for construction inspections.

1573. ASSURANCE 13, OPERATION AND MAINTENANCE. This assurance satisfies the requirement of Section 511(a)(3). It applies to federally assisted noise compatibility project items owned or controlled by the sponsor and requiring operation and maintenance. (See Chapter 7.)

1574. ASSURANCE 14, HAZARD PREVENTION. This assurance satisfies the requirement of Section 511(a)(4) of the AAIA.

1575. ASSURANCE 15, COMPATIBLE LAND USE. This assurance satisfies the requirement of Section 515(a)(5) of the AAIA. Nonairport sponsors are also required to describe in the application what actions have been taken to assure compatible usage of land adjacent to or in the vicinity of the airport. (See paragraph 1005.)

1576. ASSURANCE 16, REPORTS AND INSPECTIONS. This assurance satisfies the requirement of Sections 511(a)(10) and 511(a)(11) of the AAIA.

1577. ASSURANCE 17, CIVIL RIGHTS. This assurance satisfies the requirement of Section 520 of the AAIA. (See Chapter 14 and AC 150/5100-15.)

1578. ASSURANCE 18, ENGINEERING AND DESIGN SERVICES. This assurance satisfies the requirements of Section 511(a)(16) of the AAIA. For services specified in this assurance,, the sponsor will not use price as a selection factor. (See AC 150/5100-14.)

1579. ASSURANCE 19, FOREIGN MARKET RESTRICTIONS. This assurance satisfies the requirement of Section 533 of the AAIA. (See paragraph 800f.)

1580. ASSURANCE 20, DISPOSAL OF LAND. This assurance satisfies the requirement of Sections 511(a)(13) of the AAIA. Acceptance of a grant with this assurance obligates the sponsor to the conditions of this assurance for all land previously acquired under a grant.

1581. ASSURANCE 21, RELOCATION AND REAL PROPERTY ACQUISITION. This assurance satisfies the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and 49 CFR Part 24. By inclusion in the grant assurances, the FAA Form 5100-40 certification is no longer required of the sponsor.

1582. ASSURANCE 22, DRUG-FREE WORKPLACE. This assurance satisfies the requirements of the Drug-Free Workplace Act of 1988 (P. L. 100-690) and 49 CFR Party 29. By inclusion in the grant assurances, it obviates the need for the separate certification required of sponsors.

1583.-1589. RESERVED.

SECTION 4. SPONSOR CERTIFICATION

1590.-1599. RESERVED.